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ROYAL COMMISSION

ON

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PILOTAGE

HEARINGS

HELD AT

TORONTO ONTARIO

VOLUME No.:

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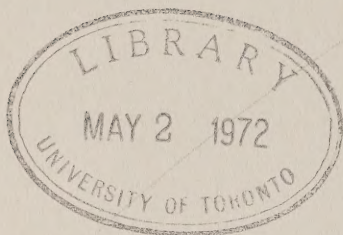
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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held
in the Toronto Board of Education
Building, 263 McCaul Street,
Toronto, Ontario, on Friday, the
20th day of March, 1964.

COMMISSION:

The Honourable Mr. Justice Bernier	Chairman
Mr. Robert K. Smith	Member
Mr. Harold A. Renwick	Member
Mr. Gilbert Nadeau	Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C.	for the Shipping Federation of Canada
Mr. Marc Lalonde	for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; Corporation of Montreal Harbour Pilots; Corporation of the Mid-St. Lawrence Pilots; Corporation of the St. Lawrence River and Seaway Pilots; Corporation of the Upper St. Lawrence Pilots
Mr. Colin Mason	for the Dominion Marine Association



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r/je

263 McCaul Street,
Toronto, Ontario,
March 20th, 1964.

---UPON RESUMING AT 10:00 A.M.:

JAMES DWIGHT BELL, sworn

DIRECT EXAMINATION BY MR. JACQUES:

Q Would you state your full name and
age, please?

A James Dwight Bell, 32.

Q Your occupation?

A Lake pilot.

Q How long have you been a lake pilot?

A Two years.

Q Do you hold a license as a lake
pilot?

A I have a registration certificate.

Q When was it granted?

A I will have to look at it.

THE CHAIRMAN: It is a certificate
from the Department of Transport?

THE WITNESS: Yes. June, the year
before last.

Q And issued by the Department of
Transport?

A Yes.

Q Did you have to pass any exams to
obtain this registration?

A Well, I had already passed an



1 examination for the river and District 1.

2 Q When?

3 A 1959.

4 Q Were you granted a registration or
5 license in 1959?

6 A No.

7 Q You were not? When did you apply
8 and to whom did you apply to become a lake pilot?

9 A I didn't apply to anybody. They
10 decided that they wanted to put some men on the lake,
11 so I was on the list to become a river pilot, so they
12 put me on the lake.

13 Q They put you on the lake?

14 A I am an apprentice for District 1.

15 THE CHAIRMAN: I have here the
16 certificate. It is a Great Lakes Pilot registration
17 certificate with the name of the bearer. Department
18 of Transport, Canada. Great Lakes Pilot Registration
19 Certificate on the other side, and with limitation to
20 Lake Ontario only, and also particulars as to height,
21 age and description of the bearer.

22 BY MR. JACQUES: Q In 1959
23 when you passed the exam to become a District 1 pilot,
24 before whom did you appear?

25 A Committee of St. Lawrence River
26 Pilots.

27 Q Before a Committee of St. Lawrence
28 River Pilots?

29 A Yes, and Captain Jones from the
30 Department of Transport, and Captain Leslie was there



1 too.

2 Q I beg your pardon?

3 A Captain Leslie from Montreal was
4 there too.

5 Q How did you apply to sit for this
6 exam?

7 A I made an application to the
8 Department of Transport to become a river pilot, St.
9 Lawrence River Pilot between Kingston and Montreal.

10 Q How had you found out that they
11 required men, or what led you to make an application?

12 A Well, I just wanted to become a
13 pilot. I thought there was more future in that than
14 sailing on the lake.

15 Q Was that after a newspaper ad-
16 vertisement?

17 A No, none whatever.

18 Q You just knew about that and you
19 made an application?

20 A I didn't know about anything. I
21 just made an application.

22 Q But you knew about the pilotage
23 system?

24 A Oh, yes.

25 Q And you made an application to be-
26 come a pilot?

27 A Yes.

28 Q After you passed your exam, what
29 were you told by the authorities?

30 A Well, I was placed on the list of



1 eligible pilots, and I would be called when there was
2 a vacancy.

3 Q Did you see that list?

4 A No.

5 Q Were you shown that list?

6 A No.

7 Q Were you given a number on that list?

8 A Yes.

9 Q What number were you given, do you
10 recall? Were you at the top of the list?

11 A Close to the top. I really forget
12 now.

13 Q Were you told how you would be
14 chosen and when you would be called?

15 A No. That we would be taken in
16 order.

17 Q In order?

18 A That is right.

19 Q Were you told there was an age
20 limit?

21 A No.

22 Q Did you ask about that?

23 A Well, I wasn't worried very much
24 about that because I am fairly young.

25 Q You passed the exams in 1959, and
26 you were called in 1962?

27 A That is right.

28 Q Between 1959 and 1962 what did you
29 do?

30 A Sailed on the Lakes.



1 Q Were you required to report your
2 activities every year to the Department of Transport?

3 A No.

4 Q In 1962 were you interviewed further
5 by the officers of the Department?

6 A Yes. I had to go in to Ottawa to
7 get my registration certificate and have a medical and
8 so on.

9 Q Did they enquire into your work
10 between 1959 and 1962?

11 A Briefly, yes.

12 Q What did they ask you?

13 A Well, they asked me what ships I
14 had been on, I think, and what I had been doing.

15 Q Since 1959?

16 A That is right.

17 Q Do you hold a certificate of any
18 kind?

19 A I hold a master's inland certificate.

20 Q When was it granted?

21 A In 1958.

22 Q Did you serve as master on any ship?

23 A I was master of a tug for a while.

24 Q For how long?

25 A Oh, a season.

26 Q Where?

27 A On the St. Lawrence Seaway.

28 Q What was the size of that tug,
29 the tonnage?

30 A I couldn't tell you.



1 Q Was it a large tug or small tug?

2 A Oh, it was a fairly large tug, yes.

3 Q What sort of work did that tug

4 perform?

5 A Dredging activity.

6 Q On what type of ships did you serve
7 apart from the time you were master?

8 A Well, I started out as a deck hand
9 on small canal ships, and when the Seaway came through,
10 they were all finished, so when I ended up to take this
11 job, I was first mate on one of the super Upper Lakes
12 ships.

13 Q Large ones?

14 A Full size.

15 Q What areas of the Lakes did you
16 trade?

17 A Duluth to Seven Islands.

18 Q On the large one?

19 A Yes.

20 Q How many years were you in that
21 trade?

22 A Since I was 15.

23 Q Duluth to Seven Islands?

24 A Yes.

25 Q Since you were 15?

26 A 15. I have been all over the Lakes,
27 yes.

28 Q Seventeen years all told?

29 A Yes.

30 Q That is it?



1 A Yes.

2 Q Now, with regard to your work as a
3 lake pilot, would you explain to the Commission what
4 you do when you are on the ship?

5 A Well, I do the navigation of the
6 ship on Lake Ontario.

7 Q How long is it to cross Lake
8 Ontario say, from Cape Vincent to Port Weller?

9 A To Port Weller or Toronto, an
10 average of ten hours.

11 Q During that ten hours do you remain
12 on the bridge all the time?

13 A If the weather is at all hazy or
14 foggy, yes.

15 Q And if it is not?

16 A If it is not, when I get to Point
17 Petre, it is a straight course.

18 Q To where?

19 A Point Petre. It is a straight
20 course.

21 Q I refer you to Exhibit 967, which
22 is a chart of Lake Ontario. Where normally would you
23 board at the eastern end of the lake?

24 A Cape Vincent or Kingston.

25 Q Yes.

26 A Most of the time Cape Vincent.

27 Q Would you remain on the bridge
28 until --

29 A Until here.

30 Q When you say "here"?



1 A This way. Point Petre.

2 Q Indicated in a large red circle and
3 the letter C. How many hours would it be from Cape
4 Vincent to Point Petre?

5 A Depending on the ship, an average
6 of three, three and a half hours.

7 Q If the weather is clear what would
8 you do?

9 A If the weather is clear and the
10 master suggested or tells me to lay down, I lay down.
11 If I am going into Port Weller, I get up here at the
12 beam of Thirty Mile Point.

13 Q Circled in red and indicated with
14 the letter D. That would be how many hours steaming
15 time from Point Petre to Thirty Mile Point?

16 A Five hours.

17 Q How long would you remain on the
18 bridge from Thirty Mile Point to Port Weller or
19 Hamilton or Toronto?

20 A Until I was relieved by the District
21 2 pilot at the Fairway Buoy at Port Weller.

22 Q If you went to Toronto?

23 A I would get up about two hours
24 before we get to Toronto.

25 Q Would you take the ship into Toronto?

26 A Yes. If the agent has a harbour
27 pilot ordered, he comes out and takes the ship in. If
28 not, I do the work.

29 Q You take the ship in?

30 A Yes.



1 Q Would that be the same procedure in
2 Hamilton?

3 A Hamilton, yes.

4 Q How long is it from Thirty Mile
5 Point to Port Weller?

6 A In hours or miles?

7 Q In hours, on the average?

8 A Three and a half to four hours.

9 Q So in fact you --

10 A By the time you reduce speed and so
11 on at Port Weller.

12 Q In fact your presence on the bridge
13 in good weather conditions would be from Cape Vincent
14 to Point Petre which is three to four hours?

15 A Yes.

16 Q And also from Thirty Mile Point to
17 Port Weller it would be three to four hours?

18 A Yes.

19 Q That would be roughly eight hours
20 on the bridge per trip?

21 A Yes.

22 Q When you are on the bridge do you
23 actually con the ship?

24 A I give all the courses to steer, yes.

25 Q Do you take bearings?

26 A Yes.

27 Q You do take bearings?

28 A Yes, with radar.

29 Q Do you do all the navigating?

30 A Well, the mates on watch are doing



1 navigation. If I think that their position is wrong,
2 I will take bearings myself and check it myself.

3 Q In other words, they do the navi-
4 gation and you see if it is correct or not?

5 A Well, I give all the courses to
6 steer. They check their position, and as I say, if
7 I think it is not right, I check it myself.

8 Q Who checks the position? You
9 separately from the mates, or the mate on watch?

10 A Well, if I think his position looks
11 wrong, I will check it myself.

12 Q So he checks it first, and if you
13 are not satisfied with it, you take bearings?

14 A Yes.

15 Q If you are satisfied with it you
16 accept it?

17 A Yes.

18 Q And do not take bearings?

19 A Yes.

20 Q What are the navigational hazards
21 encountered in Lake Ontario?

22 A Well, it is fairly confined at
23 the eastern end of the lake.

24 Q What would be the narrowest waters
25 through which you have to sail in that area?

26 A Well, waters are quite wide, but
27 the traffic comes together fairly close at the lower
28 end of the lake, and if weather conditions are at all
29 foggy, it is not good.

30 Q It is rather the traffic than the



1 physical aspect of the lake?

2 A That is right. Well, I mean you
3 have to be able to distinguish the lights. It isn't
4 one straight course out there. You have to make a
5 few alterations.

6 Q But this is not something peculiar
7 to the lake; it is just straightforward navigation?

8 A Yes.

9 Q Last year how many trips did you
10 make?

11 A Oh, roughly one hundred and thirty-
12 five.

13 Q Do you keep a record of these trips?

14 A Yes, I do.

15 Q Would you be kind enough to supply
16 the Commission with your records for 1962 and 1963?

17 A Yes, I can, but I do not have it
18 with me.

19 Q No, no. I realize. This would be
20 sent later on?

21 A Yes.

22 Q What details do you keep in those
23 records?

24 A The time I board the ship and the
25 time I get off.

26 Q The time you ?

27 A The time I board the ship and the
28 time I get off.

29 Q Do you also keep track of the port
30 of arrival, point of arrival?



1 A Yes, definitely.

2 Q Are you a member of any pilots'
3 organization?

4 A I belong to the Canadian Merchant
5 Service Guild.

6 Q Apart from that?

7 A Well, I am considered an apprentice
8 to District 1.

9 Q Do you participate in any pension
10 fund or fringe benefit of any kind?

11 A No.

12 Q You do not?

13 A No.

14 Q In the course of the year do you
15 have to take any trips through the designated waters
16 of the district?

17 A Yes, I make several trips through.

18 Q You do make several trips?

19 A Yes.

20 Q How many did you make last year?

21 A I couldn't tell you offhand.

22 Q Is it five, ten?

23 A I couldn't state any definite number
24 unless I looked in my book.

25 Q Would that be shown in your records?

26 A I can tell, yes.

27 Q Would that be included?

28 A It would not be shown, but I could
29 tell whether I got right back on another ship or not
30 if I made a trip.



1 Q Will you at the same time you send
2 your record to the Commission prepare a statement on
3 the number of trips which you have done through desig-
4 nated waters of the district?

5 A Yes, I can.

6 Q Did you have to make these trips?
7 Is it compulsory for you to make these trips?

8 A Well, in order to stay familiar
9 with the waters, it is for my own good to make them.

10 Q You do it voluntarily of your own
11 free will?

12 A Well, when I was called for this --
13 to take this lake pilot's job, as the telegram read I
14 was to make trips through the district with a registered
15 pilot whenever I could to stay familiar with the
16 waters.

17 Q That was stated in a telegram?

18 A In the telegram.

19 Q Apart from this written document,
20 did you receive any other written document?

21 A No, I did not.

22 Q That is the only one you had?

23 A Yes.

24 Q The only rule you have to go by?

25 A In what respect?

26 Q Well, your apprenticeship?

27 A That is all I have.

28 Q That is all you have?

29 A Yes. I mean it is for my own good
30 to make trips to stay familiar.



1 MR. JACQUES: Thank you, sir.

2 THE CHAIRMAN: In the description of
3 the license or registration certificate I see on the
4 back there is something here that is worth noting.
5 This certifies that the holder is a registered pilot
6 as defined in part 6 (a) of the Canada Shipping Act
7 and the United States Great Lakes Pilotage Act, 1960,
8 for the waters of Lake Ontario.

9 The number of the license is 1824,
10 and form No. 1s 63-0171.

11 CROSS-EXAMINATION BY MR. BRISSET:

12
13 Q Mr. Bell, between 1959 and 1962,
14 were you at all times working on the Seaway traffic?

15 A No, just for a year.

16 Q Just for a year?

17 A Yes.

18 Q What year was that?

19 A 1960, I believe.

20 Q In 1961 what were you doing?

21 A I was on a lake boat.

22 Q On this Upper Laker going from
23 Duluth to Seven Islands?

24 A Yes. Well, one of them.

25 Q In 1959 you were also on an Upper
26 Laker?

27 A No, Canal boat.

28 Q On the Upper Laker what rank did you
29 have?

30 A First mate.



1 Q What is the distance, Mr. Bell,
2 between Cape Vincent where you boarded ship going up
3 the Lakes and Point Petre?

4 A I will check it.
5 MR. LALONDE: Thirty-nine point
6 something.

7 Q About forty miles?

8 A Yes.

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1 Q When you do trips on the designated
2 waters I take it that you mean trips between
3 Shoal and Sarnia?

4 A District 1.

5 Q Oh, I see. It would be simply
6 between Cape Vincent and Cornwall?

7 A Snell Lock, yes.

8 Q When you do these trips you are with
9 the fully registered pilot on board?

10 A That is right.

11 Q Are you called upon to do anything
12 during these trips or are you just an observer?

13 A I am an observer.

14 Q Do you do these trips with one pilot
15 in particular or do you do them with all the pilots in
16 the district, or anyone that might be piloting any
17 ships?

18 A All the pilots in the district, who-
19 ever goes on.

20 Q Who decides that you are going to
21 make a trip in the designated waters; is that left to
22 your judgment?

23 A Well, it is left to my own judgment.
24 If I get down to Cape Vincent and I am not going to be
25 going out on another ship within a reasonable length
26 of time, I will ride on down through.

27 Q Is there any rule or regulation
28 stating that you must do a certain number of trips per
29 season?

30 A None that I know of.



1 Q So it is entirely left to your judg-
2 ment to decide how many trips should be made and when
3 they will be made?

4 A That is right.

5 Q When you get aboard a ship, say, at
6 Cape Vincent to proceed across the lake, how long does
7 it take before you get the feel of the ship?

8 A Well, there is actually not much
9 feel to a ship unless you are docking her. I mean,
10 you just give the course you want steered and tell
11 them to -- what speed you want and so on.

12 Q When you are proceeding downbound
13 from Toronto and you have to undock the ship how long
14 does it take for you to get the feel of the ship and
15 get out of the harbour?

16 A Well, you can usually be out of the
17 harbour in half an hour.

18 Q Do you feel that by the time you
19 are out of the harbour you have the feel of the ship?

20 A Yes, I would say so.

21 Q Coming into the harbour now in order
22 to dock a ship do you encounter any difficulty?

23 A Well, I mean, if there is wind there
24 is difficulty, or there might be a close dockage between
25 two ships or something. There are always difficulties.

26 Q Do you consider that by the time
27 you get to Toronto you have the feel of the ship even
28 though you have not docked on the way?

29 A Well, if there is such a thing as
30 having the feel of a ship, I would say Yes.



1 THE CHAIRMAN: You are not sure that
2 there is such a thing? Do all ships handle the same
3 way?

4 THE WITNESS: No, definitely not.

5 THE CHAIRMAN: Some have more
6 surgeway and others have less?

7 THE WITNESS: Yes.

8 MR. BRISSET: Q But you get used
9 to that rather quickly?

10 A Oh, yes.

11 Q In fact during the year 1963 for
12 instance have you been aboard all kinds of ships, big
13 ones, small ones, turbines?

14 A Yes, I would say so.

15 Q Diesel?

16 A Yes.

17 Q Does that present any problem to
18 you, to switch from one ship to another that may be
19 different?

20 A No. They are all different as a
21 rule.

22 Q Had you ever served on ocean ships
23 before you started as an apprentice pilot?

24 A No, I had not.

25 Q Did you find there was a big dif-
26 ference between the manner in which the ocean ships
27 had to be handled as compared to the lake ships?

28 A Well, I find most of them handle
29 better than a lake ship.

30 Q Then you had no difficulty getting



1 accustomed to the handling of the ocean ship?

2 A No.

3 THE CHAIRMAN: When you say most of
4 them, you mean the new ones -- or the old ones would
5 still apply in the district?

6 THE WITNESS: Well, a motor ship is
7 definitely going to handle better than a turbine. It
8 has quicker engine movements and if you want an engine
9 movement you get it right away with a motor ship
10 whereas a turbine you do not.

11 THE CHAIRMAN: And most of the ocean-
12 going ships are not equipped with turbines?

13 THE WITNESS: Oh, quite a few of
14 them are.

15 THE CHAIRMAN: But you prefer, you
16 say that the ocean-going ships are better than the
17 lake ships. On what do you base that?

18 MR. BRISSET: Q As far as handling
19 is concerned?

20 A Well, they have more power, more
21 back-up. They are finer. They steer with the engine
22 stopped, which a lake ship will not do.

23 THE CHAIRMAN: We were told that
24 there is a difference in the steering.

25 THE WITNESS: As I say, yes, the
26 ocean ship will steer with the engine stopped pretty
27 well until she loses her wave, but a lake ship will
28 not steer like that. You have to have the engine
29 turned a bit.

30 Q You have told us that you would take



1 bearings at times going through Lake Ontario. For that
2 purpose did I understand you correctly when you said
3 you would use the radar?

4 A If the conditions warrant it, yes.

5 Q Normally going through Lake Ontario
6 say at night, will you use the radar or will the radar
7 at least be on?

8 A Well, if it is clear weather I will
9 not ask to have it turned on. The mate might turn it
10 on; it is up to him.

11 Q However do you find the radar use-
12 ful as an aid to navigation even when the weather is
13 fair, say at night? I just want to know to what ex-
14 tent radar is used, whether the weather is good or
15 whether the weather is not.

16 A It is a very good aid. You can get
17 your distance off a certain point at a glance.

18 Q So it is useful not only to pick up
19 ships that might be in the vicinity, but it is also
20 useful to take quite an accurate bearing?

21 A Yes, definitely.

22 Q Crossing Lake Ontario do you have
23 to use the radio telephone or do you only use it when
24 you come to, say, Toronto or Port Weller?

25 A Well, sometimes the captain of the
26 ship will want you to send a message for him. They do
27 not speak English too well.

28 Q I am thinking of the use of the
29 telephone for navigational purposes.

30 A Well, if it is foggy you usually



1 give a security call with your position.

2 Q When?

3 A If it is foggy. I mean, anyplace,
4 to let other traffic know where you are.

5 Q In other words if it is foggy and
6 there is for instance traffic ahead you might use
7 your radio-telephone to give your position or give a
8 security call?

9 A That is right, yes.

10 Q Otherwise you will use your radio-
11 telephone to report as you come to the pilot station?

12 A That is right, yes.

13 RE-EXAMINATION BY MR. JACQUES:

14
15 Q So far as your work is concerned
16 what is the difference between what you are now doing
17 as a lake pilot and what you were doing as mate or
18 master when you were crossing Lake Ontario or going
19 into Toronto or Hamilton?

20 A Well, when I was mate on a ship I
21 stood my watch and performed all navigation.

22 Q Do you work more now? Are you
23 longer on the bridge now than you were when you were
24 mate?

25 A Oh, definitely, yes.

26 Q Are you longer on the bridge now
27 than you were when you were master?

28 A Yes, I would say so.

29 Q You are longer now on the bridge
30 than you were when you were master?



1 A Yes.

2 Q Is your work more difficult now than
3 it was when you were master?

4 A Well, more responsibility I would
5 say, yes.

6 Q More responsibility than master? I
7 see.

8 A Yes.

9 Q You are a member of the Canadian
10 Merchant Service Guild? Did you say you were a member
11 of the American Pilots Association?

12 A No, I am not.

13 Q Who collects the dues for lake work?
14 Do you do that?

15 A The American Pilots Association.

16 Q Does that?

17 A Yes.

18 Q Do they charge you anything for
19 this collection?

20 A Yes. We are charged ten percent
21 for billing and dispatching -- ten percent of our gross
22 earnings.

23 Q Ten percent of your gross revenue
24 for billing and dispatching?

25 A Yes.

26 Q Is there any other charge which
27 they make?

28 A No.

29 Q That is all that you pay? This is
30 as it were, your operating expenses?



1 A Yes, that is right.

2 Q You are reimbursed, are you not,
3 for your travelling expenses?

4 A Travelling expenses, yes.

5 Q Do you have a home base?

6 A Either end is our base -- Port
7 Weller or Cape Vincent.

8 Q So if you are in Port Weller and
9 you are dispatched to Cape Vincent you would charge
10 your travelling expenses from Port Weller to Cape
11 Vincent to the ship?

12 A That is correct, yes.

13 Q And vice versa -- if you were in
14 Cape Vincent and had to go to Port Weller to take a
15 ship you would also charge your travelling expenses?

16 A To the ship which I just got off,
17 yes.

18 Q In other words you never travel at
19 your own expense?

20 A No.

21 Q It is always at the expense of the
22 ship which you left?

23 A The ship. If I have a ship from
24 Port Weller to Cape Vincent and I am requested to go
25 back to Port Weller to take a ship the ship which I
26 just got off has to return me to my base in Port
27 Weller.

28 Q If you take a ship from Cape Vincent
29 to Port Weller and you have to take another one from
30 Cape Vincent --



1 A I have to return back to Cape
2 Vincent?

3 Q Yes.

4 A The ship that I go into Port Weller
5 on pays my expenses back.

6 Q Is that merely travelling expenses
7 or does that include hotel expenses while waiting for
8 a ship?

9 A Not while I am waiting for a ship.
10 If I get into Port Weller late at night and there is
11 no transportation out until morning I naturally go to
12 a hotel and I am allowed that.

13 Q And if you are called upon to join
14 a ship at a given hour and date at Cape Vincent and the
15 ship is late for some reason or other would you charge
16 your hotel expenses whilst you are waiting for the ship?

17 A Once I am ordered for a ship.

18 Q You go on expenses?

19 A No. I report to the pilot boat
20 and if that ship is late I get detention after the
21 first hour.

22 Q But do you also charge your hotel
23 expenses so if you are detained and the ship comes
24 only the following morning you have to sleep somewhere?

25 A Yes. I would charge it, yes.

26 Q Against the ship?

27 A Not the ship I am joining, the ship
28 which I got off.

29 Q The ship that you got off?

30 A Yes.



1 COMM SMITH: Captain, do you have
2 a statement or could you make an estimate of the in-
3 dividual workload of yourself in the pilot operation
4 in the last couple of years?

5 THE WITNESS: I could make one up.

6 COMM SMITH: You have not got one
7 now?

8 THE WITNESS: I have a book of the
9 trips that I have made, yes.

10 MR. JACQUES: He has been requested
11 to file that book, sir, for 1962 and 1963.

12 COMM SMITH: Offhand you could not
13 make an estimate?

14 THE WITNESS: I believe I already
15 have stated that I made roughly 135 trips.

16 COMM SMITH: I am thinking about
17 the number of hours per day.

18 THE WITNESS: I could not offhand,
19 no.

20 COMM SMITH: Thank you.

21 MR. JACQUES: These documents will
22 be filed as Exhibit No. 1096.

23 THE CHAIRMAN: To be returned to
24 the witness.

25 MR. JACQUES: 1096 to be copied and
26 returned to the witness -- details of voyages performed
27 by witness during 1962 and 1963 navigation season.
28
29
30



1 ---EXHIBIT NO. 1096: Detail of Voyages performed
2 by the witness during the
3 1962 and 1963 navigation
4 season.

5 MR. JACQUES: Q When you make a
6 trip as an apprentice through District 1 you just
7 watch what is done?

8 A Yes. If the pilot requests that I
9 do some work in the river, he may let me do some of
10 the river work and watch me that I do not make any
11 mistakes.

12 Q Does it happen often that you are
13 requested to do work in the river?

14 A I am not requested. If I do any
15 work I usually ask to do it for the experience.

16 Q Do you ask as a matter of course
17 every trip?

18 A No. I might be tired and would
19 sooner just watch.

20 Q Are you remunerated in any way,
21 shape or form for the services which you might perform
22 in district waters?

23 A None whatever.

24 MR. JACQUES: Thank you, sir.

25 THE CHAIRMAN: Not even your
26 travelling expenses to return?

27 THE WITNESS: No.

28 THE CHAIRMAN: You take another
29 ship, I suppose, and go up?

30 THE WITNESS: Yes.



1 CROSS-EXAMINATION BY MR. LALONDE:

2
3 Q To clarify this question of bases,
4 Captain, I am not quite sure I understood you. You
5 said you have bases which are either Kingston or Cape
6 Vincent or Port Weller?

7 A Port Weller or Cape Vincent, yes.

8 Q Does this mean that if you are at
9 either of these points waiting for a ship you do not
10 charge your expenses, or do you?

11 A I charge -- I will be reimbursed for
12 my taxi fare to the hotel and that is all.

13 Q That would apply to both places, if
14 you are either waiting for a ship in Kingston or wait-
15 ing for a ship at Port Weller? In this example I am
16 referring to a case where you have come by ship, let
17 us say, from Kingston to Port Weller -- in other words
18 travelled by land to pick up a ship; is that true?

19 A That is right.

20 THE CHAIRMAN: Before we go further,
21 as far as you are concerned where is your home port?

22 MR. LALONDE: Q Or do you have two?

23 A Kingston, as far as I am con-
24 cerned, but the American Association say different.
25 They say that our base is at either end.

26 Q Is it at either end or both ends --
27 that is the question, I think.

28 A Whichever end we are at -- both ends;
29 we will put it like that.

30 Q That is the way I understood it.



1 So you could not charge any expenses, any living ex-
2 penses at Port Weller and also at Cape Vincent or
3 Kingston when you were there?

4 A I could not?

5 Q Yes, that you could not?

6 A No, I cannot, no -- just my taxi
7 fare to the hotel.

8 Q Or from the hotel to the ship which
9 you are picking up?

10 A The ship I am joining; I will get
11 my transportation from the hotel to the ship.

12 THE CHAIRMAN: When you board the
13 ship at Port Weller for a trans-lake trip to Cape
14 Vincent and you disembark at Cape Vincent you cannot
15 charge to be returned by rail or by some other means
16 to Port Weller because you are at one of your home
17 bases?

18 THE WITNESS: I can if I am dis-
19 patched to the other end. If they want me to return
20 to Port Weller I can charge it.

21 MR. LALONDE: Q I see, so if
22 you take a ship from Port Weller to Cape Vincent and
23 you get off this ship and wait, let us say, for a
24 day before you get the next ship from Cape Vincent to
25 Port Weller back, you would wait here for a day, and
26 again back to Cape Vincent, you would not be able to
27 charge any other expenses than the taxi fare you
28 referred to; is that correct?

29 A That is correct.

30 Q If you take a ship from Port Weller



1 to Cape Vincent and you are asked to go back to Port
2 Weller and pick up another ship to take it down--

3 A Yes.

4 Q Then what can you charge?

5 A My transportation back to --

6 Q From Cape Vincent?

7 A To Port Weller, and if there is no
8 transportation, hotel room until there is transportation.

9 Q A hotel room in Cape Vincent?

10 A Cape Vincent or Kingston, if you
11 can go to Kingston.

12 Q From the time you are ordered to
13 go back?

14 A Yes, that is right.

15 Q You will charge from the time they
16 order you to go back to Port Weller?

17 A Yes.

18 Q If you travel to Port Weller and
19 you arrive here to pick up a ship and have to wait for
20 a day, on that occasion can you charge also your hotel
21 expenses in Port Weller?

22

23

24

25

26

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30



1 A They wouldn't order you back if you
2 were going to have to wait that length of time.
3 Usually when you are ordered back, you get a ship right
4 away as soon as you get there.

5 Q Usually it is the practise that you
6 take a ship up and then a ship down?

7 A That is right, yes.

8 Q What would be the percentage of
9 trips where what would be the practise?

10 A I might make 5 or 6 trips in
11 the Spring of the year just westbound and in the Fall
12 of the year, five or six trips just eastbound.

13 Q The rest?

14 A The rest would be both ways.

15 Q Therefore you could not charge in
16 both cases, all these cases, you could not charge your
17 expenses either at Kingston or Port Weller?

18 A No, just --

19 Q Taxi fare?

20 A In which instances do you mean?

21 Q That is when you are travelling both
22 ways?

23 A No, just the taxi fare.

24 Q If you take a ship from Cape Vincent
25 to any of the harbours on Lake Ontario, do I understand
26 that you are paid or you can charge the expenses to the
27 ship?

28 A That is right.

29 Q If you take a ship from Cape Vincent
30 to Toronto?



1 A Where do you want me to go from
2 Toronto, for example?

3 Q Let us say you were sent back to
4 Port Weller after you took the ship down?

5 A I can charge my travelling expenses
6 to Port Weller.

7 Q From Toronto?

8 A Toronto to Port Weller, yes.

9 MR. JACQUES: Q Against the ship
10 that you boarded in Toronto?

11 A That is right.

12 MR. LALONDE: Q That ship will
13 always pay your travelling expenses to your home base?

14 A To your base, yes.

15 Q Or home bases?

16 A Yes.

17 MR. JACQUES: To one of the two
18 bases?

19 THE WITNESS: That is right.

20 MR. LALONDE: Q And they pay
21 your expenses until you get back to the bases, if you
22 have to stay at a hotel room before getting transport-
23 ation the next morning?

24 A Yes, that is right, they will pay
25 the hotel bill.

26 Q If you are ordered to Toronto and
27 you are told to wait for a day for another ship from
28 Toronto to Cape Vincent --

29 A It is not likely you would be.

30 Q Has it ever happened to you?



1 A No, I have never had to wait in
2 Toronto for a day.

3 Q If you have any expenses there, you
4 charge them to the ship, I suppose, to the ship you
5 are going to be ordered for?

6 A If you were ordered from St.
7 Catharines to Toronto for a ship I charge the ship
8 which I am joining for the transportation to Toronto.

9 Q When you get a ship coming down and
10 going to Kingston, do you remain aboard that ship
11 'til the ship docks?

12 A Yes.

13 Q Is that the practise you have
14 followed all the time?

15 A Yes. Any time I have been in there,
16 I usually stay aboard for the experience.

17 Q How many ports do you do on Lake
18 Ontario or let us say what are the ports to which you
19 go?

20 A Toronto, Hamilton, Whitby, Cobourg,
21 Oswego, and Rochester.

22 Q And Port Weller?

23 A And Port Weller.

24 THE CHAIRMAN: At Port Weller also,
25 I think you start at the fairway buoy there?

26 A That is right, yes.

27 THE CHAIRMAN: If you are ordered
28 down you go from Port Weller.

29 THE WITNESS: No, not actually.

30 No.



1 MR. LALONDE: Q When you were
2 the first mate on the lake, did you do the ship's
3 handling yourself?

4 A In the old canal, yes. I used to do
5 a lot of it in the old system.

6 Q Since you have been an apprentice
7 pilot or have been aboard deep sea ships, I understand
8 you have never been, let us say, piloting a ship or
9 responsible for a ship elsewhere than in what could be
10 called open waters compared to the rest of the waters
11 that are restricted themselves?

12 A And the harbours, yes.

13 Q You never took a ship in restricted
14 waters or canal waters like the Welland Canal?

15 A Not a salt water ship.

16 Q Or a salt water ship in a canal as
17 narrow as that one?

18 A Well, no.

19 Q Do you experience the fact that lake
20 ships dead slow would be much slower than deep sea ships?

21 A Yes.

22 Q Is that a regular occurrence or does
23 it happen just on a few deep sea ships, that the dead
24 slow would be faster than the lake ships?

25 A Your turbine ships or ordinary old
26 up and down steamship can get there dead slow as slow
27 as a lake ship.

28 Q On the other?

29 A The others, they are too fast or
30 they are faster than the dead slow on a lake ship.



1 Q The examination you passed before
2 the Board of Examination in 1959, you said was before
3 a Committee of the St. Lawrence River Pilots. Do you
4 know whether those pilots were pilots in what was
5 called at the time the St. Lawrence-Kingston-Ottawa
6 District or whether they were from further down the
7 river?

8 A No, they were in the St. Lawrence-
9 Kingston-Ottawa district.

10 Q You also stated you had Department
11 Officials present there?

12 A Yes.

13 Q Now, although you said that you
14 were not a member of any organization other than the
15 Canadian Merchant Service Guild, have you been invited
16 to attend or have you requested -- I don't know which
17 -- to attend meetings of the Corporation of the Upper
18 St. Lawrence River Pilots, that is the Canadian Pilots
19 in District No 1?

20 A Yes, I am usually invited to attend.

21 Q Have you attended them?

22 A Yes.

23 Q Regularly?

24 A Regularly.

25 Q As far as your training for the
26 district have you received any advice or recommendation
27 from the Corporation of Canadian Pilots as to the trips
28 you should do in the district or the necessity of trips
29 in the district?

30 A No definite number but they have



1 advised me to make as many trips as I can.

2 COMM SMITH: Captain, generally
3 speaking, what has been the condition of the radar
4 sets on the ships that you have navigated? Have you
5 found them when you attempt to use them first in fair
6 condition or otherwise?

7 THE WITNESS: The majority of them
8 well, the newer ships, yes, in very good condition but
9 on some of the older Liberty ships, they would not be
10 working at all.

11 COMM SMITH: Of no use.

12 THE WITNESS: Of no use whatsoever.
13 When you took the ship up it wouldn't be working.
14 They may be on the Lakes for a month and you might
15 happen to get them on the way down and it still
16 wouldn't be working.

17 CROSS-EXAMINATION BY MR. MASON:

18
19 Q Captain, during your seventeen
20 years -- you didn't have seventeen years -- during
21 your service on lake boats were you working for one
22 Company or several Companies?

23 A One Company mostly.

24 Q I gather from what you said you
25 left that Company because you felt there was little
26 future in working with that Company?

27 A Well, there was a future, yes, but
28 I think there is more future in piloting.

29 Q Now, if you were to choose between
30 having a job as a river pilot in District No. 1 and a



1 job as a master of a lake vessel, which would you choose
2 and why?

3 A Well, I would take the river pilot
4 job in District No. 1.

5 Q Why would that be?

6 A Well, the fact that you have a
7 better home life. On a lake ship, very seldom you get
8 home from April 'til December whereas a river pilot
9 you could get home possibly two or three times a week.

10 Q Is this the only reason or would
11 there be other considerations?

12 A There would be the most principal
13 reason. As a pilot you do not have any crew to worry
14 about, union difficulties with the crew and so on.

15 MR. MASON: Fine, thank you.

16 MR. BRISSET: There is one question
17 I forgot to ask you. Normally how long does it take
18 you to proceed from say Cape Vincent to Port Weller,
19 or a normal run?

20 A I think I said before in approxi-
21 mately ten hours, an average run. It might be longer
22 or it might be less, depending on the speed of the ship.

23 Q You are being paid I believe at the
24 rate of \$50 per day or part of a day. Is that correct?

25 A That is correct, yes.

26 Q Let us suppose that you would do
27 this run in one day. Say you left at eleven o'clock
28 today and got into Port Weller ten hours later, at
29 nine o'clock. You would get \$50 for the job?

30 A That is correct.



1 Q Let us assume you would leave at
2 20.00 hours to-night and get into Port
3 Weller at 0600 hours tomorrow morning, you would get
4 \$100. Is that correct?

5 A No, I would get \$50.

6 Q You would still get \$50. Is it a
7 24-hour period?

8 A That is right.

9 Q Who does the billing for you out
10 of your source form?

11 A Leary and Dox. They are account-
12 ants in Messina, New York, agents for the St. Lawrence
13 Seaway Pilots Association.

14 Q If in addition to taking a vessel
15 trans lake you have to dock say in Toronto, there would
16 be an additional charge, I take it?

17 A Yes.

18 Q Of how much?

19 A \$25.

20 Q Does the same charge apply to un-
21 docking the ship?

22 A Yes, it does.

23
24 RE-EXAMINATION BY MR. JACQUES:

25 Q Do you do anything else for a living?

26 A No, I don't.

27 Q Nothing at all?

28 A No.

29 Q So you are on vacation now. This
30 business of having two home bases, does it apply to all



1 lake pilots, American and Canadian?

2 A Yes, it does.

3 Q They work under the same rules as
4 you do?

5 A We are under the same rules, yes.

6 Q Now, I noted that you have to call
7 in seven ports in Lake Ontario. I imagine that you do
8 not go there every week. You do not visit them all
9 every week?

10 A No, not all of them.

11 Q How do you keep up your knowledge
12 of changes in those ports?

13 A Well, I receive the notice of
14 mariners from the mail at home. You can always pick
15 them up at either pilot office.

16 Q This is satisfactory? It is suf-
17 ficient to keep up your knowledge?

18 A Yes.

19 Q There is another point which
20 intrigues me and that is the question of the wheelsman.
21 You travel on several types of ships, foreign ships,
22 Greek ships, Canadian ships, Italian ships. How do
23 you get along with the wheelsmen?

24 A Well, they usually -- there is al-
25 ways somebody on the bridge that speaks English.

26 Q Do you have trouble?

27 A No, not too much anyway.

28 Q Has it been the cause of an
29 accident?

30 A No, not in my case anyway.



1 Q Or a near accident?

2 A No, I wouldn't say that, no.

3 Q When you give orders to a wheelsman,
4 how do you give the orders? Do you say "port a little"
5 or "port 5 degrees"?

6 A Port so many degrees.

7 Q And when you say so many degrees,
8 do you mean degrees of rudder or degrees in change
9 of course?

10 A Degrees of rudder.

11 Q And that works satisfactorily?

12 A Yes.

13 Q Now, another thing is this question
14 of the feel of the ship. What do you have to know
15 when you board a ship in order to be able to handle
16 the ship?

17 A Well, I guess that is --

18 Q What questions do you ask the
19 Captain? Suppose you board a completely strange ship
20 and you have never seen it before. It is at night
21 and you cannot even hear the Diesel. You don't know
22 whether it is a Diesel or not. You go up to the bridge
23 and what do you ask the Captain?

24 A I ask him if he is ready to go.

25 Q Do you say to the captain "What
26 type of engine have you got?"

27 A You can usually tell by the ship
28 what type of engine it has.

29 Q Do you ask him what the turning
30 circle of the ship is to find out if she can spin on



1 a dime?

2 A No, I don't.

3 Q How do you judge that?

4 A Just judgment, I guess.

5 Q Do you make use of the rudder
6 indicator?

7 A Yes, I do. I watch it a lot.

8 Q What about the r.p.m. indicator?

9 A Yes, I watch that too.

10 Q They help you in your work?

11 A Oh, definitely, yes.

12 MR. JACQUES: Thank you very much.

13 THE CHAIRMAN: How many of you lake
14 pilots are there in Lake Ontario?

15 THE WITNESS: There are three
16 Canadian and three American.

17 THE CHAIRMAN: All attached to
18 District No. 1?

19 THE WITNESS: Yes.

20 Q There are none attached to District
21 No. 2?

22 A No.

23 Q Now, all the jobs of trans-lake
24 in Lake Ontario, are they all handled by you, by the
25 six of you?

26 A No, not always. We might not be
27 available. We might be off on ships or in transit.
28 If that is the case either a District 1 pilot has to
29 take the ship uplake or a District 2 take the ship
30 downlake.



1 THE CHAIRMAN: Depending where you
2 are?

3 THE WITNESS: That is right.

4 THE CHAIRMAN: Or whether there is
5 one available at No.2. For instance at Port Weller if
6 there was one available at No. 2, he would take the
7 ship down?

8 THE WITNESS: That is right.

9 THE CHAIRMAN: In cases of one of
10 you being available at other places and also No. 1 or
11 No. 2 pilot available, which would have the precedent?

12 THE WITNESS: No. 2 district pilot would have the
13 precedent at Cape Vincent.

14 THE CHAIRMAN: To return?

15 THE WITNESS: To return on a ship.

16 THE CHAIRMAN: Over you?

17 THE WITNESS: Over us, yes. District 1 pilots
18 would have the same preference at Port Weller to return
19 on a ship.

20 -

21 -

22 -



1 English

2 THE CHAIRMAN: If you are at
3 Cape Vincent, you would always have preference for
4 a trans-lake job over the number one pilots?

5 THE WITNESS: That is right.

6 THE CHAIRMAN: And vice versa,
7 when you are at number two?

8 THE WITNESS: Yes.

9 THE CHAIRMAN: I understand you
10 are paid by the job, for the job actually done?

11 THE WITNESS: That is right.

12 THE CHAIRMAN: Less a 10%
13 deduction?

14 THE WITNESS: For billing and
15 dispatching.

16 THE CHAIRMAN: Your earnings, are
17 they divided among the six of you?

18 THE WITNESS: No, they have not
19 been the last few years.

20 THE CHAIRMAN: The one doing more
21 jobs is going to earn more than the other?

22 THE WITNESS: That is right, yes.

23 THE CHAIRMAN: Do you have any
24 pension benefits?

25 THE WITNESS: No.

26 THE CHAIRMAN: Is there any
27 provision for leave, either monthly or annually?

28 THE WITNESS: No.

29 THE CHAIRMAN: Therefore if you
30 do not work you just lose your money?



1 English

2 THE WITNESS: Yes.

3 THE CHAIRMAN: Do you have any
4 guarantee whatsoever that you will ever become a
5 pilot in #1 District if you are an apprentice?

6 THE WITNESS: Well, eventually --
7 I wouldn't say there is any guarantee, no.

8 THE CHAIRMAN: Would you have
9 precedence over somebody else?

10 THE WITNESS: Oh, yes, definitely.

11 THE CHAIRMAN: What kind of
12 guarantee is there that that is going to happen?

13 THE WITNESS: Well, the only thing
14 I have seen in writing is the telegram which I received
15 when I was called for this job. It said that I would
16 eventually become a pilot in District 1 when there was
17 a vacancy.

18 THE CHAIRMAN: When there was a
19 vacancy? Among the six of you is there precedence
20 established that the first one will get the first
21 vacancy?

22 THE WITNESS: Yes.

23 THE CHAIRMAN: Or is there going
24 to be a competition some time?

25 THE WITNESS: No.

26 THE CHAIRMAN: Let us say that you
27 are the third one on the list, and all your spare time
28 you have been up and down the restricted waters, while
29 number one and number two have never been there. What
30 is going to happen?



1 English

2 THE WITNESS: Well, we all make
3 trips.

4 THE CHAIRMAN: You do on your
5 own?

6 THE WITNESS: Yes.

7 THE CHAIRMAN: But you are not
8 forced to do so?

9 THE WITNESS: No, but as I say,
10 we all do.

11 THE CHAIRMAN: Yes, I know, but
12 is it possible that through some reasoning some were
13 not?

14 MR. JACQUES: Or that one would
15 do fewer trips than you?

16 THE CHAIRMAN: Or would not be as
17 qualified as you in the restricted waters. Would
18 any consideration be given to that?

19 THE WITNESS: Well, we have to
20 pass another -- it is like an examination -- before we
21 become active in the District.

22 THE CHAIRMAN: That is the answer.

23 MR. LALONDE: In this respect if
24 I might ask the witness whether he has had any assurance
25 that the order of precedence or seniority on Lake
26 Ontario would be respected when it would come to
27 appointing one of them as a pilot in District 1. Do you
28 have anything in writing or even verbally?

29 THE WITNESS: Verbally, yes.

30 MR. LALONDE: Who told you so? I



1 English

2 mean was it a department official?

3 THE WITNESS: I can't really say.

4 THE CHAIRMAN: Then also among
5 the Americans and Canadians, or among the old group --

6 MR. LALONDE: I think the inter-
7 national agreement would have to apply as to the rule
8 of parity. I might say in this respect, My Lord, that
9 the Corporation of Upper St. Lawrence Pilots made
10 very strong representations to Ottawa to the effect
11 that the man who would be appointed on the lakes should
12 be an apprentice for the District or men considered
13 first for the District, and I think there is one letter
14 received from Mr. Cumyn to that effect finally saying
15 they would receive preference, but this did not mean
16 they would be appointed, or that they would be in order
17 of seniority in respect to long standing.

18 THE CHAIRMAN: It is a point to
19 be clarified at Ottawa?

20 MR. LALONDE: Yes. I do not have
21 anything in writing as to the exact procedure.

22 MR. JACQUES: I might add there
23 is absolutely no regulation whatsoever concerning
24 apprenticeship in District #1. This system which is
25 now obtaining is something which just grew up. It is
26 not regulated in any way, shape or form. There is no
27 guarantee attaching to it at all, but in theory it does
28 exist under the by-law. It is something that this
29 gentleman does in the hope that some day he may be
30 accepted as a pilot.



1 English

2 MR. LALONDE: I might add pilots
3 have made strong representations in order that true
4 apprenticeship can be set up.

5 THE CHAIRMAN: I am also wondering
6 whether all documents have been filed; whether there
7 is any information as to the annual earnings of those
8 lake pilots.

9 MR. JACQUES: Not to my knowledge.
10 I do not recall whether it is included in the American
11 documents that we have. Anyway, we will check on that.

12 THE CHAIRMAN: It should be
13 obtained.

14 MR. JACQUES: We shall obtain this
15 information if it is obtainable somewhere.

16 THE CHAIRMAN: It should be
17 obtainable. The American accountants, do they send
18 you an annual return?

19 THE WITNESS: Yes.

20 BY MR. JACQUES:

21 Q. Does the account include also the
22 revenues of the other pilots, or is it a separate
23 account for you?

24 A. Just a separate account.

25 Q. For you?

26 A. That is right.

27 Q. Do you keep copies of these
28 accounts for 1963 and 1962?

29 A. I haven't got one for 1962, no.

30 Q. You have one for 1963?



English

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A. I can get one.

Q. Would you be kind enough to get one for the Commission, please?

A. Yes.

Q. And forward it along with the other documents? This will be Exhibit 1097.

THE SECRETARY: Would this be a monthly or annual statement?

THE WITNESS: Annual.

MR. JACQUES: A financial statement from -- what is the name of the American association?

THE WITNESS: Leary and Dox.

MR. JACQUES: For the year 1963, for lake pilots.

MR. LALONDE: No, they do it for Captain Bell.

BY MR. JACQUES:

Q. Is that a statement of earnings which is particular to you, or does that include the others also?

A. Just myself.

Q. And the charges which are made against you are shown on that also?

A. No. It is a statement for income tax purposes. That is all the statement is.

THE CHAIRMAN: It is a statement of earnings?

THE WITNESS: Yes.

---EXHIBIT NO. 1097: Statement of earnings of Captain Bell.



1 English

2 BY MR. JACQUES:

3 Q. Now, sir, in order that there may
4 be no misunderstanding, the Great Lakes Pilotage
5 Regulations provide that the fee payable for the
6 services of a lake pilot is \$50.00 for each 24-hour
7 period, or part thereof. Now, it is in theory possible
8 that during a 24-hour period you make two trips?

9 A. That is right.

10 Q. What is the charge then? Is it
11 \$25.00 to each ship, or is it \$50.00 to each ship?

12 A. Two trips, on two different ships?

13 Q. Two different ships. Say you
14 take a ship from Port Weller to Cape Vincent, and you
15 immediately board another one at Cape Vincent and come
16 back to Port Weller. That has taken you 20 hours.

17 A. \$50.00 for each ship.

18 Q. \$50.00 for each ship?

19 A. Yes.

20 THE CHAIRMAN: It is between
21 ports also?

22 THE SECRETARY: It will not be
23 \$100.00?

24 MR. LALONDE: Yes.

25 THE SECRETARY: You say you are
26 paid \$50.00?

27 THE WITNESS: For each ship.

28 THE SECRETARY: That is \$100.00 in
29 one day?

30 THE WITNESS: That is right.



1 English

2 THE CHAIRMAN: It might even
3 be \$150.00 if you go to Toronto, Hamilton and back
4 to Toronto. It is three ships. That could be done
5 in 24 hours, and then you have three jobs?

6 THE WITNESS: That is right.

7 THE CHAIRMAN: But none of those
8 jobs took over 24 hours, so therefore you will get
9 \$150.00?

10 THE WITNESS: That is right.

11 MR. JACQUES: Q. In other words
12 the \$50.00 charge is for the trip, maximum length of
13 which will be 24 hours. Every 24 hours it is another
14 \$50.00.

15 A. That is right, yes.

16 THE CHAIRMAN: Thank you, Captain.

17 MR. LALONDE: The examination
18 which you passed in 1959, was it an examination for
19 St. Lawrence - Kingston-Ottawa District, or an exam-
20 ination for Lake Ontario pilots?

21 THE WITNESS: It was an examination
22 for Kingston-Montreal-Ottawa District.

23 MR. LALONDE: The witness passed,
24 in fact, My Lord, pilots' examination under the old
25 system, and has his name on the list, and the District
26 thus had a list of pilots and the Department followed
27 that list when it came to appointing the lake pilots.

28 THE CHAIRMAN: When it comes
29 to appointing lake pilots?

30 MR. LALONDE: When it came to



1 English

2 appointing lake pilots in 1962.

3 MR. JACQUES: This was done,
4 I believe, on the recommendation of the District #1
5 pilots.

6 MR. LALONDE: Yes. Captain
7 Slocombe might confirm here, I think, the list is now
8 abolished.

9 CAPTAIN SLOCOMBE: I think it
10 probably is, My Lord. The list was there. These men
11 were men who had passed the examination and were on
12 the eligible list to become pilots in the Kingston
13 District, as it is now, when retired. So obviously
14 these were the best choice of men to be employed on
15 this lake work, and they would be ready to go into the
16 District when the opportunity arose.

17 (Witness Retires)

18
19 CAPTAIN N. S. JOHNSTON, Sworn

20 DIRECT EXAMINATION BY MR. JACQUES:

21 Q. Your full name?

22 A. Norman Scott Johnston.

23 Q. Sir, before you come to the
24 presentation of your brief, would you clarify for
25 the Commission the reasons for the presentation of
26 this brief?

27 A. Well, sir, I was first of all
28 appointed one of the examiners with the Department of
29 Transport officials in 1959. And seeing the difficulty
30 that the pilots were in later on that year, I attempted



1 English

2 to organize them into an organization so that they
3 could bargain collectively for their interests with
4 the Department of Transport officials.

5 Q. May I interrupt you there, please?
6 You said you attempted to organize the pilots?

7 A. That is right.

8 Q. Were you then an officer or a
9 delegate of any union?

10 A. No, sir. I first of all attempted
11 to lead them into the Railroad Brotherhood of Transport
12 and General Workers.

13 Q. But you were not yourself a
14 member of any organization?

15 A. No, sir, not at that time.

16 Q. When you say you attempted to
17 lead the pilots into a particular union or organization,
18 how did you go about it? Did you see the organization
19 before your attempts?

20 A. I wrote to Ottawa, to Mr. Elroy
21 Robson, one of the Vice-Presidents of the Canadian
22 Railroad Brotherhood of Transport and General Workers.

23 Q. What did he say?

24 A. I was invited down to Ottawa a
25 certain date to meet him. That would be some time in
26 September, the early part of September, 1959.

27 Q. And it didn't work out it seems?

28 A. What is that, sir?

29 THE CHAIRMAN: There is a brief
30 filed?



1 English

2 MR. JACQUES: It is filed as
3 Exhibit 1004.

4 MR. LALONDE: You put a question
5 or you made a statement.

6 MR. JACQUES: It didn't work out
7 as it now seems.

8 MR. LALONDE: What happened? You
9 just asked a question and you proceeded. You made
10 an assumption --

11 THE WITNESS: Do you want me
12 to proceed from then on, from my meeting in Ottawa?

13 BY MR. JACQUES:

14 Q. Yes?

15 A. I went to Ottawa and met with
16 Mr. Robson, and we went to meet Mr. Dodge, Vice-
17 President of C.L.C., Canadian Labour Congress. He
18 informed us of the jurisdictional rights of the
19 Canadian Labour Congress; that the Canadian Merchant
20 Service Guild had the rights as far as licensed
21 personnel was concerned, so he suggested we go to
22 Montreal and meet with the officials of the Canadian
23 Merchant Service Guild, which we did that same evening,
24 and met with them in Montreal. Mr. Dodge did say of
25 the C.L.C. if the Guild would give up jurisdictional
26 rights, it would be all right for the men to go into
27 the Brotherhood.

28 The Guild, in our meeting with
29 them, did not want to give up the rights of this group
30 of pilots, so they asked me if I would act as special



1 English

2 agent and organize them and bring them into the
3 Canadian Merchant Service Guild.

4 Q. I see. How did you go about that?

5 A. I think I perhaps sent out a
6 letter. I cannot remember that exactly. It may have
7 been verbal. They were all waiting -- a lot of them;
8 not all of them -- for my return from Ottawa to see
9 what developed out of these meetings. It may have
10 been verbal. I can't just tell you, but anyways
11 from September until November I think I had about 85% --

12 Q. What year was that?

13 A. 1959.

14 Q. Yes?

15 A. About 85% came into the Canadian
16 Merchant Service Guild.

17 Q. 85% came into the Canadian
18 Merchant Service Guild?

19 A. Between 80 and 85. I can't tell
20 you the exact figure.

21 Q. Then what happened?

22 A. Well, then the next thing we
23 did, I wrote to, I believe, Captain Slocombe, and
24 asked for a meeting, and I am going to have to go back
25 in some old sores, and I was hoping to be able to
26 avoid it here.

27 I have a brief to present, and
28 I was hoping not to have to go back into the old
29 picture. Is it necessary for me to get back into that?

30 Q. It will certainly be of interest



1 English

2 to the Commission.

3 A. Well, I attempted to meet with
4 the Department of Transport officials, and was having
5 difficulty arranging a meeting. This got into
6 November of 1959, and I went to Ottawa and met with
7 Mr. Elroy Robson of the Brotherhood. He knew the
8 difficulty I was having.

9 Q. What sort of difficulty were you
10 having?

11 A. Well, apparently didn't want to
12 meet with Captain Norman Johnston on behalf of the
13 pilots.

14 Q. Yes?

15 A. So Elroy Robson was very helpful
16 to me on behalf of the group of pilots, and first
17 of all -- I am a little bit ahead of my story -- when
18 the Department of Transport officials didn't want
19 to meet with me, we put on a little pressure of a
20 general meeting.

21 THE CHAIRMAN: I might just say
22 here this might be policy because I think Mr. Lalonde
23 has the same problem. Carry on.

24
25 THE WITNESS: Then the Department
26 of Transport officials did not want to meet with me.
27 I think perhaps that came from the Director of Marine
28 Regulations, from Alan Cumyn. As we went to Ottawa,
29 the meeting in the hotel with the Guild officials and
30 Mr. Elroy Robson, he called Mr. Cumyn -- not Mr. Cumyn,



English

Mr. Bullock, Captain Bullock, the official of the Canadian Merchant Service Guild in the West Coast, and he suggested that they meet with me. Then a meeting was arranged the next day.

Q. Who was present?

A. Captain Slocombe. There was several officials -- Mr. McPherson of the Personnel Department; I believe Captain Jones -- I am not certain of that -- I think Captain Jones was there.

Q. What happened?

A. Mr. Baxter of the Personnel Department. They suggested then that we prepare a brief for presentation to them, which we did, and also to get a committee. A committee was selected and we prepared a brief and presented it to Captain Slocombe and, I think, Captain Leask -- I believe Mr. McPherson; I am not certain whether Mr. McPherson was at this meeting at St. Catharines. This took place at St. Catharines on the 17th November, 1959.

Q. Yes?

A. I have a copy of the brief here, sir. It is really proposals of this group of pilots. We presented it in a general way at the meeting in the Welland House Hotel in the City of St. Catharines on the 17th November, 1959.

MR. JACQUES: I should like, My Lord, to file this document as Exhibit No. 1098. It is entitled Proposals of the Pilots in the Port Weller/Sarnia District, dated November 17th, 1959.



1 English

2 ---EXHIBIT NO. 1098: Proposals of the Pilots in the
3 Port Weller/Sarnia District,
4 November 17th, 1959.

5 MR. JACQUES: Q. Now, sir, I
6 see this refers to the Port Weller/Sarnia District.
7 Was the District officially created then?

8 A. Well, I am not certain whether
9 that was created officially at that time.

10 Q. But anyway the people who you
11 represented were pilots engaged in piloting between
12 Port Weller and Sarnia?

13 A. Yes, and I believe some other
14 District too at that time.

15 Q. Some pilots from the other Districts?

16 A. They were piloting from, I
17 believe, north of Sarnia and east of Port Weller and
18 into Toronto and Hamilton at that time too, down
19 Lake Michigan. I think at that time they were also
20 going to Fort William and Port Arthur.

21 Q. What happened at that meeting?

22 A. At this meeting we presented in
23 a general way to Captain Slocombe and his Committee and
24 then we asked to have a meeting early in the year --
25 that would be in 1960 -- as soon as possible in the
26 new year, to talk over this in a specific manner.
27 Another meeting was arranged by Captain Slocombe and
28 we met in Ottawa on January 29th, 1960.

29 Q. Yes?

30 A. And negotiated on these proposals.
That year through the negotiation of these proposals



1 English

2 the salary was increased from \$950.00 a month to
3 \$1,200.00 a month. We were promised a 50-hour work
4 week on behalf of the group of pilots.

5 Q. Let me stop you here. You were
6 promised a 50-hour work week?

7 A. Yes, sir.

8 Q. Was that promised in writing?

9 A. No, sir, just verbally.

10 Q. It was a verbal promise?

11 A. Yes.

12 Q. Would you explain that a little
13 more fully? Were you promised that pilots would not
14 be on board ships for longer than 50 hours per week?

15 A. Well, sir, in the proposals here
16 we asked for a 40-hour work week to be brought into
17 effect.

18 Q. Excuse me; was that a limitation
19 of 40 hours in any given week that a pilot would be
20 aboard a ship?

21 A. That is right. And we asked
22 in (b) in the proposals on page 2 plus time and a
23 half for overtime, double time on Sundays and
24 holidays, riding on Lake Erie for ships' benefits shall
25 be considered full time, and (e) a standby time must
26 be set up and considered full time when awaiting calls
27 from clerks and dispatchers. That was the time, part
28 of it.

29 Q. Let me interrupt you again. You
30 mentioned overtime and time and a half etc. a moment ago?



English

A. That is right.

Q. What was the decision on that particular point?

A. What was the decision on that particular point?

Q. Yes.

A. We went over these proposals with Captain Slocombe and his Committee from 1, 2, 3, (a), (b), and (c). Then the officials -- Captain Slocombe as the Chairman of that Committee said that they would pay 12, give us an increase for the pilots that year from \$950.00 to \$1,200.00 a month. We understood that the 50-hour work week would also be applicable. We agreed verbally at this meeting that the 50-hour work week should be for all time aboard ship where the ship is paying the pilotage tariff for the pilot's services.

In this proposal, sir, there is also mention that we did ask for riding time on Lake Erie where the pilot was aboard for the ship's purposes. That is, riding time from the Fairway buoy outside of Port Colborne to outside of Southeast Shoal.

Q. What happened to that request?

A. We compromised on that. Mr. Baxter, in fact, was at that meeting, of the Personnel Department. He said that if we continued to press for that, which we did not, then he would have to again take this matter up with the Treasury officials.

We wanted to be reasonable and we



English

1
2 felt that the \$1,200.00 was a \$250.00 increase and
3 it was a nice increase, a reasonable increase at the
4 beginning of our negotiations and we compromised on
5 this riding time on Lake Erie. But we did mention
6 that perhaps that should be ready to be perhaps
7 considered again in another year.

8 Q. Let me interrupt you again once
9 more, please. I take it then that the riding time
10 was not included in the 50 hours per week?

11 A. This riding time on Lake Erie,
12 that is right.

13 Q. Was not included?

14 A. That was not included.

15 Q. It was not intended that the 50
16 hours be calculated from the time you boarded a ship,
17 say, at Port Weller until you got off the ship at
18 Sarnia?

19 A. That is right. This riding time
20 on Lake Erie was not included.

21 Q. Was not included in the 50 hours
22 per week?

23 A. That is right.

24 Q. What was included in the 50 hours,
25 the time in the Welland Canal and also ---

26 A. All other time when the ship
27 pays.

28 Q. And also in the Detroit River and
29 St. Clair River?

30 A. That is right, or taking these



1 English

2 ships into port, their detention in port and so on.

3 Q. I see.

4 A. In several ports on Lake Erie
5 that they take them into.

6 Q. Yes; would you continue, please?

7 A. Unfortunately this 50-hour work
8 week was not adhered to and I waited until the first
9 of June before I began to protest on behalf of the
10 pilots.

11 Q. That was the same year, 1960?

12 A. 1960, that is right. I received
13 the hours from a number of them that they were putting
14 in, not including this riding time on Lake Erie.
15 At that time they were doing somewhere around an
16 80-hour work week. This was the early part of the
17 year from the middle of April, we will say, to the
18 first of June. I kept a record of seven pilots who
19 gave me their hours. I did not want to bother them
20 all. I just wanted to get enough that I could get
21 an average some way or another. I kept that record
22 all season and in the season of 1960 they averaged
23 a 70-hour work week aboard ship for pilotage duty
24 not including this riding time on Lake Erie.

25 Q. How did you establish this average?

26 A. Pilots 1, 2, 3, 4, 5, 6 and 7,
27 which I have here, sir, gave me their time every month.

28 Q. What times did they give you?

29 A. They gave me all their times
30 from the time they were dispatched at Port Weller until



English

they completed their ---

Q. What times did you take? What hours did you take? Did you take the time at which they were dispatched or the time they boarded the vessel?

A. The time he boarded the vessel.

Q. I imagine in the course of one ship there might be detention somewhere?

A. Oh, yes.

Q. Did that happen?

A. Yes.

Q. That is a reasonable assumption?

A. Yes.

Q. Did you include the detention time in there?

A. That is right. If the pilot was paid, if that detention was part of the pilot's service for that ship, yes, that was included.

THE CHAIRMAN: I have one question -- the time boarded? You said the time ordered?

THE WITNESS: Well, this is 1960, sir. I think it was the time -- I am not certain if it was the time aboard ship or the time they reported at the pilot office. I think perhaps it was the time they reported to the pilot office. It could be either one or the other, the time they boarded ship or the time they reported at the pilot office.

MR. JACQUES: Q. Could that include also travelling time?



1 English

2 A. Possibly, yes, if they were
3 dispatched from their home, from the pilot office,
4 I think that was possibly included.

5 MR. JACQUES: Yes, I see.

6 MR. LALONDE: Including their
7 travelling time from their home to the pilot office,
8 you said?

9 THE WITNESS: No, from their
10 dispatching, from the pilot office to wherever they
11 were dispatched to.

12 MR. LALONDE: I see; if they were
13 sent, say, to Cleveland or to the other end of the
14 District?

15 THE WITNESS: That is right, that
16 was part of the time.

17 MR. JACQUES: Q. And you arrived
18 at what figure, did you say?

19 A. Well, they averaged that year
20 2,311 hours.

21 Q. When you say "they averaged",
22 what do you mean? Did you total up all the hours?

23 A. That is right. Each month I
24 would total it up.

25 Q. For the seven of them?

26 A. For the seven, yes.

27 Q. At the end of the year you
28 divided the total by seven?

29 A. Yes, that is right.

30 Q. And that answer which you got



1 English

2 would be the average number of hours for one out of
3 seven pilots?

4 A. That is right.

5 Q. To arrive at 70 hours per week
6 how did you proceed? By how many weeks did you divide
7 the total?

8 A. I divided into days, sir.

9 Q. Into days?

10 A. That is right. There were
11 231 days in that season. I took the total number,
12 or at least the average hours, Pilot #1 did 2,324
13 hours; Pilot #2 did 2,173; Pilot #3 did 2,463;
14 Pilot #4 did 2,423; Pilot #5 did 2,051; Pilot #6
15 did 2,440 and Pilot #7 did 2,301.

16 Q. And that gives you a total of
17 16,175 hours?

18 A. That is right, divided by seven.

19 Q. By seven pilots?

20 A. That is right.

21 Q. Which gives an average of 2,311
22 hours?

23 A. That is right.

24 Q. That was to November 30th?

25 A. That was to November 30th.

26 Q. 1960?

27 A. That is right. Now if they were
28 working a 50-hour work week they would average 7.14
29 hours per day. In a 30-day month at a 50-hour work
30 week (which we were promised, you see) they would put



English

1
2 in 214.2 hours per month. On a 31-day month they would
3 put in 221.3 hours per month.

4 Then 231 days on a 50-hour work
5 week, they would have averaged 1649.3 hours per season.
6 Instead of that they averaged 2,311 hours per season.
7 So in other words they worked 662 hours overtime per
8 pilot in the year 1960. With 662 multiplied by the
9 50 -- 33,100 -- divided by 1649; I figured there
10 were 20 more pilots needed that year to give this
11 50-hour work week.

12 Q. How many pilots did you have
13 then in your District?

14 A. I believe there were 45, I think,
15 then.

16 Q. Forty-five pilots?

17 A. Around 45.

18 MR. JACQUES: I should like to
19 file this document as Exhibit 1099 -- detail of the
20 work load of seven pilots in the Port Weller/Sarnia
21 District for the 1960 season.

22 ---EXHIBIT NO. 1099: Detail of work load of seven
23 pilots in the Port Weller/Sarnia
District in 1960.

24 Q. Yes. And what happened in June
25 of 1960?

26 A. I would like to mention here
27 before we go on -- I think this is important too --
28 that this year the pilots did not go out of the District.
29 That was also agreed on in the meeting with the
30 officials, in our meeting of January 29th, 1960; this



1 English

2 is a 70-hour work week without going out of the
3 District. I think this is very important because the
4 next year they were dispatched out of the District,
5 where they really did get into extreme hours of
6 100 to 140 hours aboard ships for pilotage duties.
7 I think it is important that this be brought out at
8 this time.

9 Q. Yes, then what happened?

10 A. Well, I was asking for a meeting
11 so that we could do something about these extra hours
12 that we were promised. Mr. Alan Cumyn said in his
13 letters -- I saw one presented here in St. Catharines
14 to the Royal Commission where this 50-hour work week
15 was supposed to be for 50 hours of actual work on the
16 bridge of the ship.

17 Q. You say you have a letter?

18 A. There was a letter and I have a
19 copy of it here. I heard that letter being presented
20 to this meeting. I have it also.

21 Q. It was filed?

22 A. It was filed and I have a copy
23 of it here too. I would like to say that in no way,
24 shape or form was this the agreement of the 50-hour work
25 week for actual time on the bridge of a ship.

26 Q. Would you have the date of that
27 letter, please?

28 A. The date of Mr. Alan Cumyn's letter
29 was September 7th, 1960.

30 THE CHAIRMAN: In view of the time,



English

while you are looking for that we are going to take
a very short break.

---SHORT RECESS.

---UPON RESUMING AT 11:50 A.M.

MR. JACQUES: My Lord, the letter
to which the witness made reference as regard the
50-hour work week has been filed as Exhibit 1044.

---EXHIBIT NO. 1044: Letter produced by Witness
Johnston regarding the 50-hour
work week.

BY MR. JACQUES:

Q. Yes, what happened after you
received this letter?

A. Well, that letter, sir, was
not sent to me. It was sent to all the pilots in
the --

Q. You were not a pilot then?

A. No, sir, I was not a registered
pilot.

Q. What happened?

A. I would just like to correct
something here which I have not brought you quite
up to date. This came to my mind during the recess.
My services were terminated by the Canadian Merchant
Service Guild as of January 31st, 1960.

Q. I see, yes.

A. Then I became the business



1 English

2 manager of the International Organization of Masters
3 and Mates and Pilots.

4 Q. Where is their head office?

5 A. The head office is in Cleveland,
6 Great Lakes District Local 47.

7 Q. This was an American organization?

8 A. That is right.

9 Q. You became --

10 A. This would be -- we were the
11 Canadian group of Local 47.

12 Q. Was this organization affiliated
13 with any other labour organization in the States?

14 A. Oh, yes. It is affiliated
15 with the AFL and CIO.

16 Q. But was it then affiliated with
17 those?

18 A. Was our group affiliated with
19 those? They would be through our pilots' organization,
20 yes.

21 Q. Would the SIU also be affiliated
22 with this organization?

23 A. No, sir. Well, I am not certain
24 on that. No, I don't believe it was because I don't
25 think the SIU was affiliated with the AFL and CIO or
26 the CLC so there was no affiliation, as far as I know,
27 with the SIU.

28 Q. Would you please let me sum up.
29 You became agent for the Canadian Merchant Service
30 Guild in 1959?



English

A. Yes.

Q. What month would you tell me?

A. I believe in September of 1959.

I think the first week in September, shortly after Labour Day.

Q. On the 31st of January, 1960 you were thanked for your services by the Guild?

A. My services were terminated.

Q. Your services were terminated?

A. That is right.

Q. Who approached whom, the international union or you?

A. Well, they had -- the pilots had been under the old Great Lakes Pilots' Association before I became connected with it at all or with them. Now, I don't know whether the old Great Lakes Pilots' Association had an affiliation with the International Organization of Masters, Mates and Pilots so I think they got Royland Johnson, who was President of the Great Lakes District Local 47, came to see me in 1959. We talked this matter over and in 1959 we felt they should go into the Canadian Merchant Service Guild. At least I felt that and Captain Royland Johnson would like to take us back into the IOMMP; so then I led the group into the IOMMP.

I want to go a little further if I can, sir, so you will get this picture correctly. That was in 1960. In 1961 I resigned.



1 English

2 Q. From what?

3 A. From the International Organization
4 of Masters, Mates and Pilots, Local 47, Great Lakes
5 District. And then I met with some of the officials
6 of the Corporations in Montreal, the Federation of
7 St. Lawrence River Pilots and came back from Montreal
8 and then organized this group of pilots into the
9 Professional -- the Great Lakes -- the Corporation
10 of Professional Great Lakes Pilots.

11 Q. That was in 1961?

12 A. That was in 1961. So I want
13 to get you up to that part of the story.

14 Q. What month was that?

15 A. This would be in August, sir,
16 I think the 7th of August, 1961 -- around the early
17 part of August.

18 Q. Throughout that period when
19 you were the agent either for the Guild or for
20 Local 47, did you receive any remuneration from those
21 organizations?

22 A. Yes, I did. For the Guild and
23 for the IOMMP. For the Guild I was paid an agent's
24 salary of \$480.00 a month.

25 Q. Throughout that period of time,
26 from 1959 to 1961, to the best of your knowledge,
27 could the pilots belong to more than one organization
28 at a time?

29 A. Yes.

30 Q. In 1959 to which organizations



1 English

2 did they belong?

3 A. Well, some of them belonged
4 to two or three perhaps.

5 Q. Which were they?

6 A. Well, I would know the number
7 that would be into the International Organization
8 of Masters, Mates and Pilots. I would know the
9 number that would be into the Canadian Merchant
10 Service Guild. I don't know the number that were
11 into the other organizations besides --

12 Q. Which other organizations?

13 A. I am referring to them. They
14 may be into the IOMMP. They could also be members
15 of the Canadian Merchant Service Guild. They could
16 also be members of the Civil Service Association
17 of Canada.

18 Now, when you ask me how much
19 I was paid --

20 Q. I wasn't asking you how much
21 you were paid.

22 A. I told you how much I was paid.
23 You asked if I received any remuneration. I think we
24 should go a little further into this so you will get
25 this picture too.

26 In the International Organization
27 of Masters, Mates and Pilots, the way this was
28 arranged was I was supposed to receive a salary up
29 to \$500.00 a month and that was later supposed to be
30 increased to \$750.00 a month, which I never received



1 English

2 though and the dues I was receiving from the pilots.

3 Q. You received dues from the
4 pilots themselves. That was your remuneration?

5 A. Yes, that is right. I would
6 like to say in 1961 I netted -- 1960 I guess it was,
7 about \$240.00 a month.

8 Q. From dues?

9 A. From dues. I had to pay all my
10 expenses. In 1962 I netted about \$64.50 a month
11 from dues, paying all my expenses.

12 MR. LALONDE: Excuse me. You
13 said 1962. You didn't say 1961.

14 THE WITNESS: 1960, 1961, yes.
15 I am one year out there.

16 MR. JACQUES: Q. And then in
17 1961 after the incorporation of the Corporation of
18 Professional Great Lakes Pilots, what happened to
19 the membership of Local 47?

20 A. Practically all of those pilots
21 had been in Local 47 and then they came into the
22 Corporation of Professional Great Lakes Pilots.

23 Q. Do you know if they severed
24 all relations with Local 47?

25 A. No, I wouldn't know that. They
26 could remain if they wished in any organization they
27 would want to belong to. I surmise that they pretty
28 well resigned at that time from the --

29 Q. At any rate you had severed all
30 relations with them?



1 English

2 A. That is right.

3 Q. Were you also told that there
4 were various stoppages of work on the Great Lakes
5 say between, I think, 1958 -- during 1958?

6 A. There was during 1958. I had
7 no connection there, sir, at all in 1958.

8 Q. You had nothing to do with that?

9 A. No.

10 Q. You had nothing to do at all?

11 A. No, that is right.

12 Q. Was there any subsequent stoppage
13 of work -- I don't recall?

14 A. Yes -- during 1958 there was, I
15 believe you would call it, a lockout, I guess.

16 Q. After 1958?

17 A. No, there was no stoppage in
18 1959, or 1960 or 1961. We did talk about a general
19 meeting if the Department of Transport officials
20 would not meet with us in November, 1959, but we had
21 the meeting and there was not any stoppage.

22 Q. 1958 were you the organizer or
23 agent for the Canadian Merchant Service Guild?

24 A. No, sir.

25 Q. Were you interested and involved
26 in pilotage matters then?

27 A. Well, prior to the opening of
28 the Seaway I had on a number of occasions taken ships
29 down through the Welland Canal and sometimes from
30 Port Colborne through to Montreal.



English

Q. Your interest in organizing pilots into a union of some kind started only in 1959?

A. That is right, sir, in about July, 1959 when I could see the difficulty they were having. The hours that the men put in there that summer was really killing. They needed someone, who was not a pilot, to be able to help them and so I took that on, attempted to do something for them and not only something for the pilots but for pilotage.

I live on the lake bank, sir, at Port Dalhousie. I would see -- which is now part of the City of St. Catharines. I could see the delays of those ships waiting days -- some of them waiting a couple of days, sometimes, for pilots.

Q. Excuse me for interrupting you again, but in 1958 during the stoppage of work or lockout, whatever you call it, you had absolutely nothing to do directly or indirectly in that matter?

A. That is right.

Q. You did not participate in any way, shape or form?

A. That is right.

MR. JACQUES: Thank you, sir.

MR. LALONDE: I am sorry. My friend seems to be a little disappointed.

MR. JACQUES: I am never disappointed at any of the answers I get.

THE WITNESS: I would like to point out something.



English

THE CHAIRMAN: Mr. Johnston?

THE WITNESS: If I may, sir.

In forming this Corporation, which was on the 7th of August, until I resigned again from the Corporation on the 8th day of January, 1962, I received no remuneration during those five months. A trust fund was set up to start the Corporation and the trust fund was set up in my name. As each member who wanted to join the Corporation would make out a cheque for \$100.00 to Captain Norman S. Johnston in trust, and that is the way the Corporation was started.

Then, when we got 70% into the Corporation and then we had our first meeting after the season closed, and in December provisional officers were elected in December. A general meeting was being held in January of 1962. I resigned on that date. I wanted to bring you up into this picture, as you go along, so you will understand it right from 1959 until 1962.

MR. JACQUES: Thank you, sir.

MR. LALONDE: My friend stated that there were various stoppages of work on the Great Lakes. I think the evidence is that up to now there was only one.

THE CHAIRMAN: In 1958?

MR. JACQUES: I stand corrected.

THE CHAIRMAN: Mr. Brisset?



1 English

2 CROSS-EXAMINATION BY MR. BRISSET:

3 Q. Sir, I have read your brief with
4 interest and there are some points I would like to take
5 up with you. You told us that you were born in 1903
6 and semi-retired in 1946 at the tender age of 43 years
7 of age?

8 A. That is right, sir.

9 Q. Without hurting your modesty,
10 would it be correct to say that you retired this early
11 in order to devote more of your time to worthy causes?

12 A. To worthy causes; is that what
13 I understand?

14 Q. Worthy causes?

15 A. Pardon?

16 Q. Worthy?

17 A. Worthy causes?

18 Q. Yes.

19 A. I was able, sir, to retire
20 perhaps a little sooner than the average person. I
21 was interested in the investment game for a number of
22 years and that is how I was able to retire and go home,
23 and that was in June, 1946, and live in semi-retirement.

24 Q. When did you become interested
25 in pilotage, Captain?

26 A. 1959. I think perhaps -- here
27 is another thing. You know, some of these things come
28 back to you as you ask me certain questions. I was
29 also an examiner, as I did mention, with the Department
30 of Transport officials when pilotage was set up on the



1 English

2 Great Lakes and connecting waters.

3 How I was appointed was; the
4 pilots went to their members in Georgian Bay perhaps,
5 in Kingston perhaps, in St. Catharines and Lincoln
6 and so on and asked that someone sit on that Board
7 with the Department of Transport officials because
8 I believe some of them were concerned -- that had been
9 locked out -- they would perhaps not get the markings
10 they were entitled to. That is the reason why --
11 That is when I first became interested in pilotage.

12 Q. In fact, Captain, when did you
13 espouse the cause of the Port Weller-Sarnia pilots?

14 A. In July of 1959.

15 Q. You had been interested in
16 pilotage before that?

17 A. Oh yes, as a pilot. I had a
18 number of occasions on taking ships from -- down the
19 Welland Canal and, as I told you, from Port Colborne
20 to Montreal.

21 Q. In 1958 you were living in
22 Port Dalhousie?

23 A. That is right.

24 Q. You were aware of what was going
25 on at the time in connection with the pilotage area that
26 was being formed?

27 A. Yes.

28 Q. I would like to reminisce with
29 you this year particularly. Do you remember the time
30 you were picketing in 1958 with the pilots of the Great



1 English

2 Lakes Pilots' Association?

3 A. No. I did not picketing in 1958,
4 sir. I knew there was picketing going on but I
5 myself did no picketing in 1958, so you are not
6 informed properly there.

7 Q. You did not have any participation
8 directly or indirectly in those activities at the time?

9 A. I didn't do any picketing in
10 1958 at that time.

11 Q. Then, would it be correct to
12 state that your first picketing activity was when
13 you picketed the BRITANNIA, the Queen's yacht, when
14 she went through the Welland Canal in 1959?

15 A. That is right, sir.

16 Q. Do you remember the date the
17 Royal Canadian Mounted Police picked you up gently
18 and deposited you outside of sight and reach on the
19 Welland Canal?

20 A. Picked me up gently and did
21 what, sir?

22 Q. And deposited you outside of
23 reach and sight.

24 MR. LALONDE: Reach of what?

25 Q. Of the BRITANNIA and the Queen,
26 and Her Majesty, the Queen.

27 A. You must be misinformed there,
28 sir. The Royal Mounted Police did not pick me up and
29 deposit me outside of the sight. I would like to tell
30 you a little bit perhaps about that picketing.



1 English

2 Q. Yes, I would be very much
3 interested in what you say were your reasons for
4 picketing Her Majesty, the Queen.

5 A. Well, we were not picketing our
6 good Queen. We felt that there was being some
7 rewarding going on at that time; that the dispatcher
8 position had not been open for competition, and also
9 that the dispatcher was given the position of piloting
10 the Royal Yacht perhaps without, again, competition
11 because he had been the dispatcher in 1958.

12 I would also like to mention
13 that I went down to the officials the day before, the
14 Canal, and told them what we planned to do, and the
15 Canal authorities knew all about it. The following
16 day when you said that the Royal Canadian Mounted
17 Police officials picked me up and deposited me outside,
18 that is not a true story. I was told that we could
19 not picket on Canal property, so I went to see Mr. Paul
20 Ellis, Superintendent of the Canal, and he informed
21 me of that, and we then picketed on the roadway by
22 the bridge at the head of Lock 1.

23 Q. You told us you were appointed
24 examiner for the Department of Transport to select
25 pilotage material or candidates that were to serve in
26 1959. When were you so appointed?

27 A. It would be just before the
28 examinations took place that year. Sometime in April.
29 Middle of April. There was two days sitting at
30 Montreal; I believe it was the 16th and 17th of



1 English

2 April in Montreal. Twenty-four pilots came up there
3 for examination, and if I can remember the day, I
4 think the 16th and 17th was a Thursday and Friday,
5 and we came up to Toronto and sat there for four
6 days, and the dates were the 20th, 21st, 22nd and 23rd
7 of April, which I believe was a Monday, Tuesday,
8 Wednesday and Thursday. Fifty pilots came up for
9 examination in Toronto. There was a total of 74
10 pilots. We had an average of 12 pilots per day.
11 Two an hour. Half an hour to each man. Perhaps a
12 man himself would be in for his examination somewhere
13 between 20 and 25 minutes, and the other two examiners
14 and I, Captain Jones, Captain Morrison and myself --
15 Captain Lee sometimes relieved Captain Jones -- and
16 there was a gentleman from the Personnel Department,
17 and I have forgotten his name, who sat there with us
18 all that time. That is the way the examinations took
19 place.

20 I would like to mention if I may
21 at this time that there was some remarks about the
22 examination in St. Catharines. Captain Stevenson
23 apparently felt that he didn't receive a proper exam-
24 ination. I would like to say this: Captain Stevenson
25 received the same examination that everyone else
26 received.

27 He said he was only in two or
28 three minutes, and also that all he was asked, whether
29 he had been on Georgian Bay, something to this effect,
30 and that is not a true statement. He received the



1 English

2 examination the same as everyone else, and from the
3 Ships Pilots Rating Guide, and the formula which we
4 had to follow -- I have a copy of it here -- and I
5 would like to say this again: Unfortunately there
6 was only 20 pilots appointed that spring, and there
7 was some dissention amongst some because they were
8 not all in the first twenty.

9 To arrive in the first 20 you
10 had to have many years of experience, and there were
11 some men who came up there with some 15 to 20 and 25,
12 and one man I believe had 31 years experience, so
13 Captain Stevenson with just 3 years experience --
14 and you had to have 3 years experience or you would
15 have been scratched -- so Captain Stevenson was just
16 under the wire coming in for the examination as set up
17 by the Department of Transport officials. I had nothing
18 to do with setting it up.

19 I just wanted to correct that
20 impression which to me was wrong. I think Captain
21 Stevenson had a very fair examination.

22 I did suggest to the Department
23 officials that we should have a day of revision --
24 perhaps longer. I could see some errors taking place
25 in this thing, in this examination, as you go along,
26 but at the time the ships were in Montreal waiting
27 to come up the Seaway when our examinations were start-
28 ing on the 16th and 17th, and we sat four more days
29 in Toronto, the 20th, 21st, 22nd and 22rd, and there
30 wasn't sufficient time left for a day of revision.



1 English

2 If there was a day of revision
3 I am sure there would have been -- some would have
4 got a little higher marking. I felt that all the way
5 through. Unfortunately they couldn't be all in the
6 first 20, and there was some dissention, and anyone
7 that only had 3 years certainly couldn't get up with
8 those who had 15, 20 and 25 years. It would be
9 impossible, so I just wanted to correct that evidence.

10 Q. I see in your brief on page 9,
11 Captain, paragraph 9, you make this recommendation:
12 That seniority rights of the pilots now established
13 in these Districts must be respected at all times
14 and not encroached upon whatsoever.

15 What do you mean exactly by
16 this?

17 A. Well, I believe that seniority
18 rights should be respected.

19 Q. In other words, a pilot who has
20 been working in a District should be given preference?

21 A. I think when more pilots are
22 required the seniority rights of any man who has
23 worked should be respected. I would like to say this
24 if I may at this time: I think perhaps in 1959 if
25 something like that had been adhered to, those
26 gentlemen who did not get in the first 20, who had
27 already been piloting, some of them lost their livelihood
28 that year. I always felt sorry to see that. I had
29 nothing to do with setting up the examination, as you
30 know, but I think seniority rights then perhaps -- with



1 English

2 a good record, mind you; you can't have seniority
3 rights without a record, but with a good record those
4 seniority rights should have been respected I think
5 at that time, and it would have eliminated a lot of
6 the ill feeling that took place because some were
7 piloting and others weren't, and I do think that is
8 an important part.

9 We cannot correct those errors,
10 if they were errors, but the seniority rights of those
11 today should be respected or anyone who had worked
12 in piloting in the past.

13 Some of them in 1959 are not
14 piloting today because they were not amongst the 20,
15 and they were only promised temporary employment. They
16 were also told, I believe, if they were three days
17 off, slackness, in 1959 they could be laid off and so
18 on and so forth, so some pilots left and took other
19 jobs, permanent jobs. I think those men are entitled
20 -- when any more pilots are required, they should be
21 given an opportunity to get back into pilotage, and
22 that is why I mention that.

23 Q. In other words, you concede there
24 was an error made in 1959 when you were one of the
25 examiners, when in selecting the pilots, most of those
26 who had worked in 1958 were left out, and instead
27 those who had picketed and refused to work in 1958 were
28 taken in?

29 A. Mr. Brisset, I have to disagree
30 with you there. That is not true either. Quite a number



1 English

2 of those who worked in 1958 were in the first 20.

3 Quite a number of them. Those are facts that could
4 be proven. I am not saying that just to -- I know
5 those to be facts.

6 Q. Well, the records, to be quite
7 fair to you, Captain, show that out of the first 20
8 that were selected, and I am now referring to
9 Exhibit 1077, the time book, the record shows that
10 10 out of 30 that had been piloting the previous year
11 were selected, and 10 that had not been piloting the
12 previous years, namely those who had been involved in
13 difficulties and had picketed --

14 A. Ten each; is that right?

15 Q. Ten and ten.

16 A. So it can't be said that
17 Norman Johnston was showing some partiality to those
18 who had not been working that year.

19 Q. You have stated in your evidence
20 earlier that you did not recall whether you had made
21 your appeals to pilots at the Port Weller-Sarnia
22 area in 1959 verbally or in writing. To refresh your
23 memory, I would like to show you what I might call a
24 circular which was issued around July 20, 1959, and
25 which was addressed in this manner:

26 "To member and non-member pilots of
27 the Great Lakes Pilots Association in
28 the Port Weller-Sarnia area.

29 "I, Captain Norman Johnston, have
30 offered my services to the Great Lakes



1 English

2 Pilots Association as business manager.
3 I will seek through the proper channels
4 and with the help and guidance of good
5 labour leaders, ways and means and the
6 possibility of entering into the
7 Canadian Brotherhood of Railway,
8 Transport and General Workers Unions,
9 a bona fide affiliate of the Canadian
10 Labour Congress.

11 "I will seek further to end the
12 discord, bitterness and fear that exists
13 in this pilotage area at the present
14 time under a so-called government set-up
15 for pilotage which is government
16 controlled in name only. That pilots
17 may be free men, and able to call their
18 soul their own."

19 And reading further:

20 "Let us all join hands in this worthy
21 cause for the good of pilotage and our
22 country as a whole, so that foreign
23 shipping interests will not be dictating
24 policy to our marine services branch
25 of the Department of Transport."

26 MR. LALONDE: Hear, hear!

27 Q. And then at the bottom there
28 was a further bulletin, "Please sign, tear off and
29 return this section to Captain N. S. Johnston, Business
30 Manager, Great Lakes Pilots Association, 42 Ann Street,



1 English

2 Port Dalhousie, Ontario."

3 A. That is right.

4 Q. Do you recall this circular?

5 A. Yes, I sure do.

6 Q. You had assumed, I take it,
7 that you would be --

8 A. Pardon?

9 Q. You had assumed you would be
10 elected before the vote took place?

11 A. That was sent out, but I was
12 asked how it first started. It was verbally when
13 we first -- many of the pilots came to see me, and
14 we talked about this before I even sent out that
15 circular. That circular, that is right, that went
16 out, and then I received that sort of ballot effect
17 there -- they wished me to see what I could do on
18 their behalf, and then that is when I arranged the
19 meeting with Mr. Elroy Robson of the Railroad
20 Brotherhood.

21 MR. BRISSET: I would like, if
22 I may, to file this circular possibly as part of the
23 brief, Exhibit 1004.

24 MR. LALONDE: It should be filed
25 as a separate document.

26 THE CHAIRMAN: Under a separate
27 number, 1100. The title would be?

28 MR. BRISSET: Circular issued
29 around July 20, 1959, by Captain Norman S. Johnston,
30 to member and non-member pilots of the Great Lakes



English

Pilots Association in the Port Weller-Sarnia area.

---EXHIBIT NO. 1100: Circular issued by Captain Norman S. Johnston, July 20, 1959.

BY MR. BRISSET:

Q. Captain Johnston, I have another circular that was issued under your signature on or about October 30, 1959, addressed to the same people.

A. Yes.

MR. BRISSET: I would like to file this under the same number if I may be permitted.

THE CHAIRMAN: That is right.

MR. LALONDE: What is the date of it?

MR. BRISSET: October 30, 1959.

Q. In this report, Captain, you were advising the pilots of the results of your interview with Mr. Robson?

A. Yes.

Q. And Mr. Dodge; is that right?

A. Yes, that is right. I didn't read that whole thing, but that is who I met with, yes, Mr. Robson and Mr. Dodge.

Q. You were enjoining the pilots to join the Guild at this time?

A. That is right.

Q. And you conclude in this manner, if I may quote:

"I therefore ask you to back up this



1 English

2 opportunity with your whole-hearted support both
3 financially and otherwise, and send to me your
4 initiation fee and at least three months' dues at
5 your earliest opportunity."

6 You were repeating your
7 exhortation, "Let us all join hands in this worthy
8 cause for the good of pilotage and our country, that
9 pilots may be free men and able to call their soul
10 their own." You were very much interested at the
11 time in the souls of the pilots of the District?

12 A. Well, Mr. Brisset, I want to
13 say this: I sat there and saw what was going on
14 in 1959, and I saw the overworking of these pilots in
15 this District, and I will tell you overworking wasn't
16 human in one way, shape or form. These men, I have
17 seen them come off their ships exhausted, haggard and
18 faces drawn and tired and needed rest, and they were
19 requested again to go out in a few hours' time, when
20 more capable men could have been brought into pilotage.

21 I didn't like to see those
22 ships laying out there at anchor either. It is a funny
23 thing, in this meeting so far that I have attended,
24 I have never heard anything about economy, about the
25 economics of lost time. Maybe it has been mentioned,
26 but I haven't been here, but the economics of lost time,
27 the cost of delays waiting for pilots must have been
28 tremendous. I could see this from my home, ships
29 anchored from east of Port Weller above Port Dalhousie,
30 and from my home I see 180 degrees of the circle, sir.



English

Q. At that time when you were seeking to have the pilots in the Port Weller-Sarnia area join the Guild, you were still affiliated, weren't you, with the International Organization of Masters, Mates and Pilots, of which Mr. Rolla R. Johnson was President?

A. No, sir, there was no affiliation at that time.

Q. What was your relationship, if there was any, with Captain Johnson?

A. All I can say it was a friendly relationship, but there was no affiliation in any way, shape or form at that time with the International Organization of Masters, Mates and Pilots. When the pilots were in the old Great Lakes Pilots Association, then there was an affiliation with the International Organization.

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1 Q. But you still have pilots with whom
2 you were in contact who belonged to the International
3 Organization of Masters, Mates and Pilots?

4 A. I do not think they belonged. To
5 my knowledge I do not think anyone belonged at that
6 time.

7 Q. I would like to read to you, Captain,
8 an extract from the press release which appeared in the
9 Globe and Mail on November 20th, 1959, and would ask
10 you to confirm whether this is to your knowledge or
11 not.

12 It was entitled "Decision could aid
13 Canada Lake Pilots".

14 "Captain Rolla Johnson said the swing to the
15 Guild was made with full knowledge and agree-
16 ment of the U.S. organization. 'We are in
17 full support and work very closely with
18 Captain Johnston,' the U.S. official said.
19 'There is extensive cooperation between our
20 two groups.'

21 "The decision from which Captain
22 Johnson said there is no avenue of appeal ---"
23 If I may interrupt here, he was speaking of the de-
24 cision of the National Labour Relations Board in the
25 States which put a stop to picketing of ocean ships
26 in American ports.

27 "The decision", said Captain Johnson, "limits
28 the men that may be used on picket lines and
29 provides that they always be in sight of the
30 vessel concerned."



1 A. You are speaking now of Captain
2 Rolla Johnson?

3 Q. Yes.

4 "This may mean that small boats, up to
5 about 55 feet in length, would be used to
6 carry pickets and signs."

7 I am sorry; I started at the wrong place. The first
8 paragraph should have read this way:

9 "Since last year's dispute the pilots
10 have swung toward the Merchants Service
11 Guild, of which many are members. Some also
12 have signed cards with the Civil Service
13 Association of Canada. Leading the negotia-
14 ting team is Captain J. J. Deslaurier of
15 Montreal, Secretary of the Guild, with
16 Captain Norman Johnston, of Port Dalhousie."

17 And so on.

18 Then another statement of Captain Johnson ---

19 A. Rolla you are speaking of?

20 Q. Yes.

21 A. Please say that ---

22 Q. "We have no belligerent plans
23 for the near future provided the Canadian
24 Government stops threatening and harassing
25 the Canadian pilots. If there is no action
26 on a settlement by next spring, the picket lines
27 will be out down here again."

28 During that period of time is it true that you were
29 working in close cooperation with Captain Johnson?

30 A. We had no connection with the I.O.M.M.P.



1 at that time. Some of the members might have belonged.
2 I doubt it at that time. There was an old affiliation
3 with the old Great Lakes Pilots Association and Captain
4 Rolla Johnson of the Great Lakes District Local 47 had
5 nothing to say in one way, shape or form about us
6 going into the Canadian Merchant Service Guild. I
7 remember that report in the paper.

8 As far as Captain Rolla Johnson is con-
9 cerned he had no decision to make in that in one way,
10 shape or form.

11 MR. BRISSET: I would like to file this
12 extract from the Toronto Globe and Mail dated November
13 20, 1959, as Exhibit 1101.

14 ---EXHIBIT NO. 1101: Extract from the Toronto
15 Globe and Mail, November 20,
16 1959.

17 Q. Now, Captain, I would like to refresh
18 your memory of a letter that you addressed on March 6,
19 1960, to the Honourable George Hees, Minister of
20 Transport. Do you recall having written this letter?
21 You referred to it in your brief.

22 A. Yes. I wrote Mr. Hees quite a
23 number of letters.

24 Q. Yes, but do you recall this one in
25 particular?

26 A. I cannot until I just look it over.
27 Going over it, in a way, yes.

28 Q. The letter says, Captain, that you
29 signed it in this manner -- "Captain Norman S. Johnston,
30 Canadian Pilots Representative and Business Manager,



Great Lakes and Port Weller-Sarnia Pilots and
International Organization of Masters, Mates and
Pilots."

You have come then ---

A. That is right, into the International
Organization around the 1st February, 1960.

Q. In this letter, Captain, if I may just
give a summary, you were recommending this, and I
quote: "Further to my letter of February 24th
protesting to you, sir, the issuing of a B licence
or any licence whatsoever by Canada or the United
States to a foreign or British ship master or 'other
officers' for open lake pilotage; among other things,
the letter also says it must be made certain that
only a Canadian or American citizen who is a qualified
pilot is on call as a pilot aboard ship on a 24-hour
basis for open lake pilotage."

That is what you were advocating
at the time?

A. Read that again, please.

---Mr. Brisset showed the letter to the witness.

THE WITNESS: Yes.

MR. BRISSET: That is what you were advo-
cating then.

I would like to file this letter,
my lord, as Exhibit 1102.

---EXHIBIT NO. 1102:

Letter dated March 6, 1960,
to the Hon. George Hees
from Norman S. Johnston.



1 Q. Captain, did you attend the hearings
2 before the subcommittee on coastguard, coast and
3 geodetic survey and navigation of the Committee on
4 Merchant Marine and Fisheries of the House of
5 Representatives on March 9, 10 and 11, 1960, in
6 Washington?

7 A. No, sir.

8 Q. You did not?

9 A. No, sir.

10 Q. Was Captain Rolla Johnson ---

11 A. I believe he would have been there,
12 yes.

13 Q. Instructed to speak for you?

14 A. Well, he was president of the Great
15 Lakes Districts, Local 47. I do not think he would
16 have to have any instructions from me, but he was
17 speaking for -- he was a president of this Great Lakes
18 District Local 47, which we were the Canadian section.

19 Q. I see. I would like to quote from
20 the evidence of Captain Rolla Johnson before the
21 committee.

22 A. Rolla R. Johnson?

23 Q. When he said this:

24 "I would also like to request that a
25 letter from my representative of Masters,
26 Mates and Pilots in Canada be inserted in
27 the Minutes also."

28 Then your letter of March 6th, 1960, to the Honourable
29 Mr. Hees was put in the record.

30 A. He received all copies of my letters



1 that I sent up, so that could have been.

2 Q. So it was with your authority that
3 he did so?

4 A. Well, I cannot say he asked me. I
5 do not remember at that time whether he asked me or
6 not, but I would imagine that he as the president
7 could do that. He had a copy of the letter. I sent
8 him a copy of the letter, all letters I sent out.

9 Q. Do you recall having attended the
10 hearings called by the Great Lakes Pilotage Adminis-
11 tration?

12 MR. LALONDE: Would my friend file
13 the document he has referred to before, unless the
14 document has already been filed? Otherwise I would
15 request it to be filed.

16 MR. BRISSET: It is only a refer-
17 ence to the letter of the Captain. I have no objec-
18 tion to filing it except that this is my only copy
19 at the moment. I would like to keep it subject to
20 filing later on.

21 MR. JACQUES: We can give it a number
22 and obtain the copy of this document, if your lordship
23 wishes.

24 THE CHAIRMAN: All right; it will be
25 1103.

26 MR. BRISSET: Hearings in connec-
27 tion with the Great Lakes Pilotage Bill H. R. 10593.

28
29 ---EXHIBIT NO. 1103: Hearings in connection
30 with Great Lakes Pilotage
Bill H.R. 10593, dated
March 9, 10, 11, 1960.



1 MR. BRISSET:

2 Q. The question I was asking you,
3 Captain, was whether you recall having attended the
4 hearings held in Cleveland on January 12th, 1961,
5 called by the Great Lakes Pilotage Administration?

6 A. Yes, sir.

7 Q. You recall also having given evidence
8 before this hearing?

9 A. Yes, that is right, yes. There was
10 one brief that I had ready to present and it had to be
11 -- it was not relevant just to the district and I
12 presented another one the following day. I worked
13 that night on one. That is right.

14 Q. I would like to quote to you an ex-
15 tract from your evidence on page 253 of the transcript
16 when you were questioned by the Chairman of the
17 meeting, Alfred T. Neschter.

18 " Chairman Neschter: Captain, I would
19 like to clarify a few points in my own mind.

20 You are a Canadian citizen, I presume?

21 Captain Johnston: Yes, sir; I am.

22 Chairman Neschter: And these pilots
23 that you are representing are all Canadian
24 citizens?

25 Captain Johnston: That's right.

26 Chairman Neschter: And you are actually
27 representing them as a Labour organization;
28 you are not representing them as a pilots
29 pool?

30 Captain Johnson: Not at the present



1 "time, no.

2 Chairman Neschter: Do you do some
3 dispatching of pilots?

4 Captain Johnston: Yes, I do some on
5 request of our president, Captain Rolla R.
6 Johnson. When he has requests for pilots
7 from sailing masters he will call me and I
8 will dispatch those, but I do not have
9 anything to do with the dispatching of
10 those men that are working at the present
11 time in the Port Weller-Sarnia area.

12 Chairman Neschter: Those are indivi-
13 dual arrangements that you do to help
14 Captain Johnson?

15 Captain Johnston: Yes, sir.

16 Mr. Thurman: Where do you dispatch
17 from?

18 Captain Johnston: The home in
19 Port Dalhousie.

20 Mr. Thurman: Where is Port Dalhousie?

21 Captain Johnston: If I might show you
22 on the map, it is right here, right near the
23 City of St. Catharines. In fact, we are
24 now in the City of St. Catharines. We
25 amalgamated with the City of St. Catharines.

26 Mr. Thurman: It seems to me you more
27 or less start a contract with each ship you
28 supply a pilot for; is that right? You
29 say sometimes you get \$55 and sometimes you
30 get \$42, that the rate would vary. What



1 "determines what the rate will be?

2 Captain Johnston: The American rate
3 has been \$55 plus expenses. The Canadian
4 rates for a sailing master was \$42.50. When
5 we would dispatch them to an American vessel
6 we would get the \$55 rate."

7 And so on.

8 Q. Were you operating a pilotage service
9 at the time, Captain, in competition with the govern-
10 ment?

11 A. No, it was before the District had
12 been, I believe, passed at Ottawa and Washington.
13 When some pilots would be asked for outside of Sarnia,
14 north of Sarnia, or some American vessels would come
15 up that had a connection with the International
16 Organization of Masters, Mates and Pilots, Captain
17 Rolla Johnson would call me and ask me to dispatch a
18 pilot to these certain ships. That was ships at
19 that time that -- I am just trying to go back to
20 1960 and 1961. That was before the American pilots
21 came into pilotage in this Port Weller-Sarnia area,
22 or anywhere on the Great Lakes.

23 It had not yet been passed, this
24 pilotage bill between Canada and the United States.
25 Some of these pilots or some of these captains through
26 their agents or their captains would call Rolla Johnson
27 when they would require a pilot outside of the Port
28 Weller-Sarnia area. Then I would dispatch some of
29 our men.

30 Q. It was not rather the otherway around,



1 Captain, that Captain Rolla Johnson would go to the
2 ship in the American port, the ocean ship, and would
3 say to the master: "You had better take one of my
4 sailing masters or pilots if you don't want to get
5 into trouble." ?

6 A. I could not tell you what Captain
7 Rolla Johnson said to them at all, Mr. Brisset. But
8 I do know that at that time the pilotage bill had not
9 been passed between the two countries.

10 I am just trying to think of the one
11 case where one of the State Line boats called me for a
12 pilot. This ship at that time had an American pilot
13 aboard her. She was a State Line ship and the
14 captain was not satisfied with this pilot he had.
15 Captain Rolla Johnson called me at night that the
16 captain wanted another pilot. So we dispatched a
17 man from Montreal. That ship was leaving the next
18 morning and the only way that he could get to Detroit
19 to be there the next morning was to fly from Montreal
20 to New York and New York to Detroit. It was one of
21 the State Line ships; I could not tell you which one
22 it was. It was a Canadian we sent from Montreal.

23 Q. You had a busy year in 1961, did you
24 not, in connection with pilotage?

25 A. Well, yes. I was certainly busy,
26 I believe, yes.

27 Q. Do you recall having attended the
28 hearings of the Great Lakes Pilotage Administration
29 in Chicago on July 17th and 18th?

30 A. Yes, I do.



1 Q. Do you recall having given evidence?

2 A. Yes, sir.

3 Q. Am I correct in assuming that at the
4 time you presented a brief that read in so far as
5 specific areas recommended and marked for compulsory
6 pilotage was pretty well the same as the one
7 you have presented before this Commission?

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1 A. A number of them, yes. I said
2 a number of them.

3 Q. Do you recall after you explained
4 your scheme counsel for the Administration Mr. Thurman
5 turned to you and said, and I quote:

6 "You pretty well covered the lakes,
7 captain. About the only thing that you
8 left out is the mid-lake area. Is that
9 your feeling?

10 "The Witness: That is correct. I
11 would say three-quarters of the lake is left
12 out."

13 In other words, am I correct in understanding, as
14 Mr. Thurman did at the time, that under the plan
15 which you propose in your brief only the middle of
16 the lakes or the middle of Lake Michigan or the middle
17 of Lake Superior would be the places where you did not
18 require a pilot?

19 A. That is right. In the confined
20 areas -- the same as I have presented in this brief,
21 very similar to that. This brief is very similar.
22 These items were very similar to the ones which I put
23 in here, that in the confined areas of the lake always,
24 I believe, there should be pilots aboard to assist
25 the deep sea masters in these confined areas. I
26 remember that, I think it was practically the same
27 in that brief if I remember right, in 1961 in
28 Chicago.

29 Q. I take it that the Pilotage
30 Administration in the United States at the time did



1 not pay too much attention to your recommendations.

2 A. Well, sir, I can't tell you what
3 they did. They perhaps did give it a lot of thought
4 but I think there is some constructive recommendations
5 there. I had one letter from Mr. Thurman -- I don't
6 know whether I have it or not. I remember him --
7 something like this, that he thought these recom-
8 mendations were good or that something similar would
9 be set up when the Americans did come into the picture
10 in 1961.

11 I also had a letter from the American
12 Merchant Marine Institute -- I forget his name --
13 one of the officials of the American Marine Institute
14 who asked me for, I believe, a chart showing these
15 pictures. Apparently ---

16 Q. He could not understand from your
17 writing what was meant; is that it? He wanted to see
18 it with his own eyes on a chart?

19 A. No, I think he was very interested
20 in it. I think he was very much interested in it and
21 that is why he wanted -- not being a lake man -- he
22 did not perhaps realize -- he did not know where these
23 areas were. He asked me to send him a chart. I
24 forget whether it was a chart or -- I think it was a
25 chart. He already had a copy of the brief, so it
26 must have been a chart, so I sent him along a chart.

27 Q. Finally I take it that in 1961 you
28 did organize the pilots or assist in organizing the
29 pilots into their present corporation?

30 A. Yes.



1 Q. When did you sever your connections
2 with the International Organization of Masters, Mates
3 and Pilots?

4 A. Verbally after that meeting in Chicago
5 on the 17th day of July, 1961.

6 Q. What was the reason?

7 A. I felt that we were not getting too
8 far in the International Organization of Masters,
9 Mates and Pilots. The Department of Transport
10 officials were still refusing to meet with us to
11 discuss these many problems of the pilots in this
12 area and I did verbally say to Captain Rolla Johnson
13 in a hotel room in Chicago, "Rolla, I am going to look
14 into something else on behalf of this group of pilots."
15 That was on the 17th day of July, the day of that
16 meeting.

17 I came home and I wrote to one of
18 the pilots in District No. 1 who -- he and I had
19 talked several times about pilotage matters -- and
20 asked him if he could arrange a meeting. He arranged
21 a meeting around the first week in August. I met with
22 the pilots of the Federation of the St. Lawrence
23 River Pilots. Mr. Lalonde was present and I came back
24 up and sent out -- put out a little notice. I have
25 it here, sir, if the Royal Commission would like to
26 have it.

27 That is how we started the organiza-
28 tion into the Corporation of the Professional Great
29 Lakes Pilots. This is dated the 5th of August.

30 Officially, again verbally I had



1 mentioned to Captain Rolla Johnson on the 17th of
2 July that I was resigning. I thought I had better
3 put that into writing officially and on the 7th day of
4 August I put that officially into writing, my resig-
5 nation, so there could not be any dispute of the
6 resignation.

7 THE CHAIRMAN: You put it into writing
8 and you sent it to whom?

9 THE WITNESS: Captain Rolla Johnson,
10 President of the Great Lakes District Local 47 of
11 the International Organization of Masters, Mates and
12 Pilots, my lord.

13 THE CHAIRMAN: Will you read the letter?
14 It is a short letter?

15 THE WITNESS: Pardon?

16 THE CHAIRMAN: Will you read it?

17 THE WITNESS: This notice here.

18 "To all Port Weller-Sarnia pilots:

19 "Important information."

20 This is dated August 5th, 1961.

21 "Captain Norman S. Johnston,
22 invites all pilots and sailing masters to
23 inquire of him information as to the for-
24 mation of the Professional Pilots Associa-
25 tion of Great Lakes Pilots, that is not a
26 labour organization.

27 "Protect your God-given right
28 of human working conditions so that you will
29 be able to bargain for and get equality in
30 salary and working conditions with all



1 Seaway pilots.

2 "Act now without delay. Protect
3 your professional rights before it is too
4 late."

5 Signed "Captain Norman S. Johnston, Pilots' Repre-
6 sentative."

7 MR. BRISSET:

8 Q. Captain Johnston, I have an extract
9 from the Montreal Gazette, August 1st, 1961, from
10 which I would like to read to you something. It is
11 this:

12 "Captain Johnston sent a telegram
13 to Transport Minister Balcer, accusing his
14 Department of 'creating unemployment',
15 by allowing the Innstein through the canal
16 without a pilot. 'To relieve the pilot
17 shortage I would suggest that you have your
18 officials immediately stop sending the
19 pilots of their districts and put the lake
20 sailing masters in their areas.'

21 "Ships are now being delayed consider-
22 ably at both ends of District No. 2 through
23 the inadequate and inefficient pilotage
24 system. The telegram said."

25 Do you recall having sent this telegram?

26 A. Yes, sir. That may not be the
27 exact words. As you know, sometimes in the press
28 there are some words changed but a telegram very
29 similar to that.

30 Q. That was the general idea?



1 A. Yes, sir.

2 Q. You were still, as the article says,
3 the business representative of the International
4 Organization of Masters, Mates and Pilots on the 1st
5 of August?

6 A. What was the date of that?

7 Q. The 1st of August.

8 A. Possibly, it may be. Officially I
9 did not resign, as I told you -- I hadn't even had
10 that meeting at that time, which was the first week
11 in August, when we had the meeting with the officials
12 of the Federation of St. Lawrence River Pilots.

13 Officially I had not yet resigned from
14 the 7th of August. Verbally I told Captain Rolla
15 Johnson I was going to look into something else on
16 behalf of the pilots.

17 Q. When you were recommending to the
18 Minister to use sailing masters in the open area at
19 that time, I take it that you had in mind your own
20 organization dispatching pilots here and there?

21 A. Oh, yes.

22 Q. Just one more question, captain.
23 You have spoken to us about the 50-hour work week. I
24 am wondering how you could put this into operation,
25 Say a pilot leaves Cape Vincent and proceeds to Sarnia
26 and his 50 hours of time on board ship expires while
27 he is in the middle of Lake Erie. What would you
28 do?

29 A. Well, sir, a pilot does not punch a
30 clock. Certainly you cannot walk off in the middle of



1 Lake Erie or any of his District. He must complete
2 his consignment with that ship but it could be
3 averaged out over the season.

4 MR. BRISSET: Thank you.

5 THE CHAIRMAN: I think therefore we
6 will now adjourn until two-thirty this afternoon.

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8 ---Adjournment.
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1 ---On resuming at 2.30 p.m.

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3 CROSS-EXAMINATION BY MR. BRISSET (cont'd):

4 Q When did you cease to act as an
5 examiner for the pilots in the Port Weller-Sarnia
6 District?

7 A. As an examiner, you mean, sir, with
8 the Department of Transport officials?

9 Q. Yes.

10 A. On the 23rd of April. I believe the
11 date was the 23rd of April, 1959.

12 MR. LALONDE: My lord, my friend has
13 referred to an extract from the Montreal Gazette, I
14 think, quoting a telegram to the Honourable Balcer.
15 I wonder would he mind filing it? It is the Montreal
16 Gazette, August 1, 1961, an article entitled "No
17 Welland Pilots, ships dump cargo."

18 THE CHAIRMAN: Exhibit 1104.

19
20 ---EXHIBIT NO. 1104: Clipping from Montreal
21 Gazette dated August 1,
1961.

22 CROSS-EXAMINATION BY MR. LALONDE:

23 Q. There is a report in this article
24 which Canadian Press issued from Sarnia, which is
25 written here Sarina -- I suppose it is Sarnia. It
26 said "two of three seagoing ships forced to postpone
27 loading operations for twenty-four hours Friday because
28 of a shortage of pilots in the Sarnia-Port Weller
29 area were being unloaded here Saturday. The third
30 vessel, the Capo Mele of Italy, requested that its



1 cargo be shipped to an eastern port."

2 Are you aware of those events yourself?

3 A. I remember reading something about that.

4 Q. But you were not ---

5 A. I had nothing to do with that report,
6 sir.

7 Q. Reference was made to the trip of
8 the Royal Yacht Britannia in 1959 in the Welland Canal.
9 Do you know who was appointed pilot on board?

10 A. Captain Crawford was appointed,
11 Captain Leslie Crawford was appointed pilot in the
12 Welland Canal District.

13 Q. Was he the man who was also dis-
14 patching pilots for the Shipping Federation that year?

15 A. Yes, sir, he was.

16 MR. BRISSET: The previous year.

17 THE WITNESS: That is right.

18 MR. LALONDE:

19 Q. In 1958?

20 A. Yes.

21 Q. There has been evidence that the
22 man who had been appointed in the St. Lawrence-Kingston-
23 Ottawa District was also the man who had been dispatch-
24 ing pilots for the Shipping Federation in previous
25 years, and the reason alleged for his appointment
26 there was that he was the senior pilot in the district.

27 Do you know the reason which was
28 alleged in your district for his appointment because
29 I understand that Captain Crawford was not a sailing
30 master before 1959?



1 A. The reason for his appointment I
2 couldn't tell you, sir.

3 Q. You don't know yourself?

4 A. I donot know the reason for his
5 appointment. If I may -- if I can remember correctly,
6 I wired the Minister at that time, and I suggested that
7 the pilot who received the highestmarks on the Ships
8 Pilots Rating Guide, and also a veteran of the First
9 World War, if there was any way of picking them --
10 I thought there should be some way of picking them
11 that way. That was the suggestion I made.

12 Q. Captain Crawford was appointed
13 although he had never been a sailing master before
14 on the Great Lakes?

15 A. I believe he had made a few trips
16 in 1958 as a dispatcher for the Shipping Federation.
17 There was a shortage of pilots, I think, and he made
18 a few trips from Port Weller to Sarnia in 1958.

19 Q. On the examination in 1959 there
20 were only twenty men to be appointed. You said
21 about ten out of the thirty -- ten out of thirty
22 pilots who were appointed or employed by the Shipping
23 Federation in 1958 were appointed pilots in the dis-
24 trict?

25 A. I believe there was ten each; ten
26 who had been we will say locked out and ten who had
27 worked as pilots in 1958. I think that is how it
28 worked out.

29 Q. Of the thirty who had been appointed
30 by the Shipping Federation in previous years do you



1 know how many never had been sailing masters before,
2 before they were appointed by the Shipping Federation
3 in 1958?

4 A. No, sir, I don't.

5 Q. You don't know? Do you know how
6 many of them had been sailing masters?

7 A. If I had the list to go over I could
8 perhaps point out those who had been sailing masters
9 and those who hadn't been. I could make an error
10 there, too.

11 Q. It is not necessary. I remember
12 Mrs. Crawford I think did this when she was in the box.
13 You said when you had been in the organization of the
14 Corporation of Professional Great Lakes Pilots you
15 did not receive any remuneration from the pilots of
16 the district?

17 A. No, sir. I have received no remunera-
18 tion whatsoever.

19 Q. Did you receive any remuneration
20 directly or indirectly from the other pilots of the
21 St. Lawrence River?

22 A. No, sir, I did not.

23 MR. LALONDE: Thank you.

24
25 BY MR. BRISSET:

26 Q. What do you mean, captain, when you
27 say the pilots were locked out in 1958? Do you
28 mean to say that they were not offered work in the
29 Port Weller-Sarnia area?

30 A. Well, sir, it has been called a



1 strike, and it has been called a lock-out. I don't
2 know whether the true name could be called a strike
3 or lock-out, and it has been referred to many times as
4 a lock-out, and by others, referred to as a strike.

5 Apparently there was not sufficient
6 jobs under the new system for all the pilots. I
7 believe they have received telegrams -- I have heard
8 this mentioned, too -- from the Shipping Federation,
9 and I cannot tell you all the particulars because at
10 that time I was not interested in helping the pilots
11 until the following year. So it has been called a
12 lock-out and it has also been called a strike, so
13 I really can't tell you what it was. There was not
14 enough work for them all who worked the year before.

15 Q. Are you aware, nevertheless, that
16 some of the sailing masters that belonged to the Great
17 Lakes Pilots Association did not want to come and
18 join the roster in the Port Weller-Sarnia area? Were
19 you aware of that?

20 A. Yes, I believe that is so. I cannot
21 tell you the exact picture there because, as I say, at
22 that time -- I have heard rumours about that, yes.

23 MR. LALONDE: Are you aware also
24 there was a large number of them that were not offered
25 jobs at all?

26 THE WITNESS: That is what I have
27 heard. I have heard a large number weren't offered.

28 THE CHAIRMAN: Captain Johnston,
29 you were not questioned very much about your presenta-
30 tion. If you want to add something about that, we will



1 hear you.

2 THE WITNESS: On page 8, my lord, Item
3 No. 4: "That the Pilotage Commissioners and
4 Administrators of both Canada and the U.S.A. consult
5 with representatives of the Shipping Companies, the
6 respective pilot organizations, and the Department of
7 Transport in all measures relevant to pilotage: such
8 as pilotage tariffs, collection and disposal of
9 pilotage dues, pilot boats, working conditions,
10 welfare and pensions, safety of life and property,
11 the number of pilots required in each district."

12 I would like to add to that after
13 the words "number of pilots required", apprentice
14 pilots in the district, etc. Just the words
15 "apprentice pilots" I would like to add to that.

16 I think certainly the Commission
17 when it is set up certainly should have some -- if
18 that is the recommendation of this Royal Commission
19 that Commissioners be appointed -- I think the Com-
20 missioners should have some say in the apprentice
21 pilots, so I would like to add that word "apprentice
22 pilots".

23 I would like to go back to the
24 Great Lakes -- and I am only speaking about, and I
25 hope I am not misunderstood here -- about the Great
26 Lakes area. At the present time there has been a
27 high standard set in regards to the qualifications
28 for a pilot before he could sit for examination, and
29 he had to have three years as master or sailing master.
30 I think that high standard should be kept.



1 I also think that when a Great Lakes
2 master has served three years, and when I say that,
3 three seasons, I would like to point this out: I think
4 three seasons should be a designated number of months.
5 The months in that season should be eight months a
6 season; making twenty-four months that he should
7 serve as a master or sailing master, and there is
8 no longer any sailing masters, so it is a master of
9 a Great Lakes vessel. When he has served twenty-
10 four months that man has put in an apprenticeship
11 of somewhere between fifteen and twenty years' appren-
12 ticeship from the time he started sailing, learning
13 this game on the Great Lakes, and he certainly
14 does become an expert. I would say ninety-five
15 per cent or perhaps more become very expert in
16 manouvring and handling vessels.

17 That is why in the Great Lakes --
18 that is all I am talking about -- I think that high
19 standard should be kept, and I think that my recom-
20 mendation would be that the Pilotage Commission, if
21 such a thing is set up, that they do have some control
22 over that, to maintain that high standard.

23 THE CHAIRMAN: Is there anything else
24 you would like to add to your representation?

25 THE WITNESS: Well, the others I have
26 marked here on page 9 are referring practically to the
27 same thing, my lord. On page 9, items 14 and 15
28 is practically referring to the same items. I just
29 mentioned, "that more pilots will be required into
30 Great Lakes Pilotage by following these recommendations



1 and to relieve the shortage and overworking of
2 those now registered."

3 And No. 15: "That the pilots
4 now working in Pilotage under temporary permits and
5 not registered, including those over sixty-five years
6 of age that have good health and eyesight, and those
7 who have worked in the past with good records and
8 would like to return to Pilotage, should be the first
9 to be registered."

10 If I may hesitate here before I go
11 into No. 16, sir, there were some men that came in
12 under temporary set-up in 1959, who had been Great
13 Lakes sailing masters for several years, and were only
14 promised temporary work, and those men didn't stay
15 in pilotage. Some figured that possibly they would
16 not be there too long and they should go and take a
17 permanent job, and they left.

18 If those men would like to come back,
19 and they already have served as Great Lakes pilots on
20 these ships, I think they should certainly be con-
21 sidered.

22 Then, of course, it goes into 16:
23 "That those desiring to enter pilotage service on
24 the Great Lakes and connecting waters and who have
25 had three successful years as master or sailing master
26 on these waters are good potential candidates for
27 these areas. They have already served an apprentice-
28 ship of fifteen to twenty years, or more." That
29 really covers what I was mentioning in the first
30 place, my lord.



1 Another thing that I would like to
2 mention -- there is nothing here in the brief about
3 it -- that some disciplinary action has been taken
4 against a man in 1959, and if I may now, sir, could
5 I mention this and speak about this gentleman?

6 MR. LALONDE: Without mentioning the
7 name, please.

8 THE WITNESS: This pilot was suspended
9 in 1959, sir. He had been a pilot for several years
10 prior to the opening of the Seaway. Can I say from
11 what descent he came?

12 THE CHAIRMAN: Oh, yes.

13 THE WITNESS: He came from Scottish-
14 French Canadian descent. His forebears on his
15 father's side came out from Scotland a number of years
16 ago. They settled in the Lower St. Lawrence area;
17 the father was a lighthouse keeper on Green Island
18 in the Lower St. Lawrence, out south from the Saguenay
19 for a number of years, I believe, until he retired.
20 His brother is still -- it is still in the family.
21 A brother of this gentleman I am speaking about is
22 still the lighthouse keeper, or he was up until a
23 couple of years ago, and I believe he still is.

24 This same father organized the
25 lighthouse keepers a number of years ago into an
26 organization so that they could speak collectively
27 for themselves to their officials -- I guess it would
28 be called the Lighthouse Service. There was a large
29 family of them. A number of boys. I believe
30 eleven or twelve in the family.



1 In the days when the father was
2 organizing the lighthouse keepers these boys wrote
3 letters for their father. The father would give
4 them the original, and they would write the letters --
5 no way of mimeographing or copying in those days -- to
6 all the lighthouse keepers across Canada.

7 This gentleman again I am speaking
8 about was in favour of an organization of pilots.
9 He was helpful to me in 1959 to try to organize
10 this group so that they could get out of the terrible
11 conditions that they were working under.

12 He was a pilot on a ship some time
13 in July or August -- I am not sure of the date --
14 at Detroit, coming down from Sarnia, and the captain
15 reported him as drunk, I believe. This gentleman
16 was suspended. It was a German ship. Should I give
17 the name, or shouldn't I?

18 THE CHAIRMAN: Yes, it is all right.

19 THE WITNESS: A German ship; I believe
20 the Otto Nubel, and he made a note on the remarks
21 on the pilot's card that this gentleman had been
22 drinking. He changed that card.

23 -

24 -

25 -

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1 He felt that he would not get justice and that is
2 why he changed the card. He made an error, but
3 he did not commit an unpardonable sin. I feel
4 that wrong has been done to this man, sir.

5 THE CHAIRMAN: What happened after that?
6 He turned ---

7 THE WITNESS: The card was turned in and
8 then he was suspended two or three weeks later. I
9 wrote a letter on his behalf. I went to Ottawa with
10 him with the officials in Ottawa. We thought at that
11 meeting that he would perhaps just have a month's
12 suspension and then would get back into pilotage.
13 We felt that from our meeting, but this pilot has
14 been suspended for life. He has never had a chance
15 to work in pilotage again.

16 THE CHAIRMAN: His licence was removed?

17 THE WITNESS: I believe so, sir. His
18 licence was removed as far as I know. He is a
19 highly capable man. He is not a drinking man. Any-
20 one who would know this pilot as I know him and others
21 know him -- he was waiting at Detroit. The ship was
22 supposed to be unloaded around eleven o'clock, mid-
23 night, one o'clock, two o'clock. He did not go to
24 bed but he laid in his room with his head over a
25 table, I believe, or a dresser or something in his
26 room waiting for the call every hour.

27 Then when it did not come, until a
28 certain time in the morning -- I cannot tell you the
29 exact time, but it was around perhaps two or three
30 o'clock in the morning -- and as he would get up;



1 if you know this gentleman as I know him, he would
2 get up and kind of stand like this (demonstrating) when
3 he first got up in the morning. He would kind of --
4 he was tired. The hours they were putting in were
5 tremendous at that time. He was tired and would
6 perhaps stagger a little bit.

7 THE CHAIRMAN: Did he appeal from this
8 decision?

9 THE WITNESS: I went to Ottawa with him.
10 As far as I know he has had no chance, has never
11 appealed. I think he has gone to officials to
12 try to do something for him, and apparently nothing
13 was done for this pilot. I would not mention his
14 name because I feel this man has had a great wrong
15 done to him.

16 BY MR. LALONDE:

17 Q. What year was that, captain?

18 A. 1959.

19 Q. In 1959; that would have been after
20 the competition which you held for pilots in the
21 Port Weller-Sarnia area?

22 A. What is that again?

23 Q. That would have been after the com-
24 petition which you had?

25 A. That is right.

26 Q. Do I understand you to say he had
27 been appointed a pilot then in the district?

28 A. He was one of the temporary pilots
29 appointed at that time. He was not in the first
30 twenty.



1 Q. I know he was not in the first
2 twenty, but he had been appointed later on a temporary
3 pilot?

4 A. Yes. He worked right from the
5 beginning because practically all these temporary
6 pilots -- there were forty-five or more brought into
7 the district because of the number of pilots required
8 to move the ships.

9 Q. He was a holder of a departmental
10 licence, then, even a temporary one?

11 A. I believe so.

12 THE CHAIRMAN: It was a temporary one
13 in the situation in 1959. It was replaced by a
14 permanent one in 1960.

15 MR. LALONDE: I see.

16 THE WITNESS: Could I give my thoughts,
17 my Lord, on why I think he may have been suspended?

18 THE CHAIRMAN: Go ahead.

19 THE WITNESS: As you have all heard, I
20 first of all attempted to organize him into the
21 Brotherhood and from there into the Guild. The
22 captain was so helpful to me that I have felt and
23 others feel the same thing, because he was so helpful.
24 He is not a radical in one way, shape or form. He
25 is just a good, sane man, and because he was helpful
26 on behalf of the group to try to interest them to
27 get them out of their difficulty that they are in
28 there, I have felt and others have felt and this
29 pilot feels that perhaps that is the reason for his
30 suspension.



1 I would like to say this. After he
2 was suspended until pilotage was set up in 1961
3 in a joint operation between Canada and the United
4 States, this same pilot from quite a number of the
5 shipping agencies received jobs from them to bring
6 their ships up from Montreal -- or from Kingston,
7 I guess it was -- up from Kingston to their desti-
8 nation and return. Those shipping agencies, this
9 means they thought enough of this gentleman that he
10 was a capable man to do this work. But when
11 pilotage was set up jointly apparently his licence
12 had been revoked and he now has no way of making a
13 living in pilotage. To me this man has been per-
14 secuted.

15 THE CHAIRMAN: You do not know what steps
16 he took to have the decision ---

17 THE WITNESS: He took a number of ships ---

18 THE CHAIRMAN: No -- steps he took to
19 have the decision revised or appealed?

20 THE WITNESS: What is that, sir?

21 THE CHAIRMAN: You know there was a dis-
22 ciplinary decision rendered on some grounds, I
23 suppose. The first ground was misconduct and the
24 second ground was falsifying the document. So
25 therefore I suppose that some form of inquiry, in-
26 vestigation and hearing was held and the decision
27 was rendered. There I suppose he could have
28 appealed from that decision. I would like to know
29 about that in order to find out whether he was treated
30 well or not -- whether he was treated in accordance



1 with the regulations.

2 THE WITNESS: To my knowledge he did not
3 appeal. I think he might have through some friends
4 that he knew of, or perhaps went to some friends to
5 see if they could not do something about the thing. I
6 do not know of any appeal that took place. At the
7 time I went to Ottawa with him we thought that
8 perhaps he would be suspended for a month and then
9 he would be brought back into pilotage.

10 As I say, he did not commit an
11 unpardonable sin. He should not have changed that
12 card. I do not believe this pilot was drinking. You
13 have to know this pilot, as I say, to get up and
14 (the witness demonstrated). However, he made an error
15 when he did change that card.

16 THE CHAIRMAN: I suppose the reasons
17 you give there were given and were considered?

18 THE WITNESS: I hope they were. I just
19 wonder at times, because I think every endeavour was
20 being made to stop the pilots organizing.

21 THE CHAIRMAN: Yes, but you know that
22 falsifying a document is very serious in administra-
23 tion.

24 THE WITNESS: Pardon?

25 THE CHAIRMAN: Falsifying a document is
26 very serious.

27 THE WITNESS: I realize this.

28 THE CHAIRMAN: You can see that now in
29 the local papers here.

30 COMMISSIONER SMITH: This has nothing



1 to do with the offence, but just to complete the
2 record with regard to his domestic circumstances,
3 has he any dependents, this pilot?

4 THE WITNESS: . Yes, sure, he has. He is a
5 married man, I believe with one child. I am not
6 just certain of the number of the family. There may
7 be more than that, but I think there is only one child.

8 MR. LALONDE:

9 Q. Did the ship have an accident when
10 he was aboard at that time?

11 A. No, he did not. To my knowledge
12 he did not have an accident.

13 THE CHAIRMAN: We assure you when we
14 are in Ottawa we are going to look at the case.

15 CAPTAIN SLOCOMBE: The record will be
16 available, my lord. I am quite sure the Commission
17 will agree there was no other course available to
18 the Department.

19 THE CHAIRMAN: Are there any further
20 questions of Captain Johnston?

21 MR. JACQUES: No, my Lord.

22 THE CHAIRMAN: Thank you very much,
23 Captain.

24 ---The witness withdrew.

25
26 THE CHAIRMAN: No further witnesses?

27 MR. JACQUES: Before we part company,
28 on Monday, April 6th in Toronto the Toronto Harbour
29 Commissioners will take the stand.

30 THE CHAIRMAN: That will be all for the



1 6th?

2 MR. JACQUES: I think so.

3 THE CHAIRMAN: You think we will have
4 enough with that?

5 MR. JACQUES: I think so. On April 7th
6 will be the Hamilton Harbour Commissioners. On April
7 8th will be Captain Stevenson's cross-examination
8 and re-examination. On April 9th there will be
9 either the Civil Service Association or Imperial Oil.
10 That is as far as we dare go.

11 THE CHAIRMAN: Is Captain Stevenson
12 going to be here on Monday, the 6th?

13 MR. LALONDE: Yes, most likely.

14 THE CHAIRMAN: I will be very pleased
15 if he be prepared to continue because we have seen
16 from experience that only one witness in one day is
17 sometimes very short.

18 MR. LALONDE: I will see to it, my Lord,
19 that he comes.

20 THE CHAIRMAN: Thank you very much.

21 We will now adjourn until Monday, April 1
22 6th, at the same place, at ten o'clock in the morning.

23
24 Whereupon the hearing was adjourned
25 until Monday, April 6th, 1964, at 10.00 a.m. in the
26 Board of Education Building, McCaul Street, Toronto,
27 Ontario.

28
29
30 -----

ROYAL COMMISSION

ON

PILOTAGE

HEARINGS

HELD AT

TORONTO

VOLUME No.:

121

DATE:

April 6, 1964

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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held
in the Toronto Board of Education
Building, 263 McCaul Street,
Toronto, Ontario, on Monday, the
6th day of April, 1964.

COMMISSION:

The Honourable Mr. Justice Bernier	Chairman
Mr. Robert K. Smith	Member
Mr. Harold A. Renwick	Member
Mr. Gilbert Nadeau	Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C.	for the Shipping Federation of Canada.
Mr. Marc Lalonde	for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; Corporation of Montreal Harbour Pilots; Corporation of the Mid-St. Lawrence Pilots; Corporation of the St. Lawrence River and Seaway Pilots; Corporation of the Upper St. Lawrence Pilots
Mr. J. G. Langs	for the Hamilton Harbour Commissioners
Mr. Colin Mason	for the Dominion Marine Association



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* * * * *



263 McCaul Street,
Toronto, Ontario,
April 6, 1964

---UPON RESUMING AT 10.00 A.M.

MR. JACQUES: My lord, I will now ask Mr. Langs, Q.C., Counsel for the Hamilton Harbour Commissioners, to file his brief as Exhibit No.?

THE SECRETARY: 1105.

---EXHIBIT NO. 1105: Brief of the Hamilton Harbour Commissioners.

MR. JACQUES: And to present it. The Act respecting the Harbour of Hamilton and the Bylaws of the Harbour of Hamilton were already filed as Exhibit 521.

THE CHAIRMAN: All right, sir.

MR. LANGS: My lord and gentlemen, I have felt that with my friends' permission I might have the General Manager of the Hamilton Harbour Commissioners read certain extracts from the brief. Mr. Morgan.

CLIFFORD WILLIAM MORGAN, sworn

DIRECT EXAMINATION BY MR. LANGS:

Q. Your occupation, Mr. Morgan?

A. I am the Port Director of the Port of Hamilton.

Q. And filed with this Commission is Exhibit No. 1105, which is the brief to the Royal Commission on Pilotage of the Hamilton Harbour Commissioners. Would you refer to that brief and would you read to the



1 Court paragraphs 5 to 36, but omitting 32 to 35? Would
2 you just read, commencing at paragraph 5?

3 A. The Hamilton Harbour Commissioners
4 Act was enacted by 2 Geo. V, Chapter 98, assented to
5 April 1st, 1912.

6 Under the authority of the above Act
7 the Port of Hamilton is administered by an independent
8 commission of authority.

9 There is a three-man board appointed
10 jointly by the Federal Government and the Corporation
11 of the City of Hamilton, two members by the Governor
12 in Council and one by Hamilton City Council.

13 During the intervening years since
14 1912 the independent port administration has proved to
15 be of immense benefit to Hamilton, as evidenced by the
16 impressive results of a continuous port development
17 carried on by successive Harbour Boards throughout half
18 a century of their administration.

19 When the St. Lawrence Seaway was almost
20 ready for its first ship, an East Coast critic dubbed
21 it "a railroad without stations". The said criticism
22 did seem valid at the time as most of the Great Lakes
23 ports were tardy in getting their plans under way to
24 provide for Seaway draught navigation and new wharf
25 facilities to accommodate ocean shipping.

26 The Port of Hamilton was, however, an
27 exception in developing an early attack on the tremen-
28 dous task of converting an active lake port to a busy
29 Seaway port.

30 Dredging at the entrance to its deep



1 water harbour was carried out to 28 feet in 1939.

2 Q. 1959.

3 A. I am sorry, 1959. This is not a very
4 good copy, Mr. Counsel. Making Hamilton the first
5 Great Lakes port to provide seaway docks. An exten-
6 sive programme of dredging contributed to by the
7 Federal Department of Public Works followed to extend
8 seaway depth navigation to new wharf construction.
9 This dredging was substantially completed in 1959,
10 terminating in an unprecedented blitz with dredges of
11 five companies working on five separate public and
12 private dredging contracts at the same time.

13
14 Meanwhile in 1958, a year before the
15 Seaway opened, the Hamilton Harbour Commissioners com-
16 pleted the first project of a four-wharf construction
17 programme when they opened their new four million
18 dollar Overseas General Cargo Terminal No. 8, built
19 an extension to their Wellington Street wharf. Later
20 they joined with the Public Works in completing, in
21 1960-61, three big new bulk material handling wharves.

22 Further improvements at the harbour
23 entrance involved replacing two old moveable bridges.
24 The magnificent new nineteen million dollar Skyway
25 Bridge was completed in 1958 by the Ontario Department
26 of Highways. It carries Queen Elizabeth Way traffic
27 across the channel with standard Seaway clearance of
28 120 feet. Close by, a new six million dollar vertical
29 lift bridge was opened by Public Works to low level
30 rail and vehicular traffic in 1962.



1 Adding in the cost, exceeding twenty
2 million dollars, of construction of new wharf and
3 material-handling facilities by Hamilton's steel and
4 implement industries, the total of all expenditures on
5 engineering works including dredging to make Hamilton
6 a top-rated Seaway port, was over sixty million dollars
7 during the period 1955-62. Result, official statistics
8 in the annual traffic reports of the St. Lawrence Sea-
9 way for 1959 through 1962 showed Hamilton as leading all
10 other ports in amount of Seaway cargo handled.

11 With the opening of navigation in the
12 new Seaway in the spring of 1959, the Hamilton Harbour
13 Commissioners inaugurated pilotage service, employing
14 reputable pilots, for the purpose of assisting masters
15 in getting their vessels in and out of Hamilton harbour,
16 and to and from wharvestherein. This service was
17 established particularly for the benefit of masters
18 entering the Seaway for the first time, and therefore
19 unfamiliar with the harbours of the Great Lakes. It
20 was the first service of this kind established in the
21 Great Lakes, and as far as is known, is still the only
22 pilotage service provided by a Seaway port with the
23 exception of similar services established in Toronto
24 in 1960.

25 The Port of Hamilton pilotage service
26 is available to vessels entirely at their option and
27 is not compulsory. Many captains continue to utilize
28 the service, although sufficiently acquainted with the
29 harbour to bring in their ships without the use of a
30 pilot. They have, without exception, expressed



1 confidence in the competence of the pilots employed by
2 the Commissioners, and insist that the service should
3 be continued.

4 Recognizing that the pilotage service
5 operated by the Hamilton Harbour Commissioners was per-
6 forming a necessary service supplementary to the pilotage
7 service provided elsewhere on the Seaway jointly by
8 the Department of Transport and the U.S. Pilotage
9 Administration, the Governor General in Council was
10 pleased to confirm an amendment to the bylaw of the
11 Hamilton Harbour Commissioners on the 15th day of
12 February, 1962, providing for the adjustment of the
13 dues payable to the said Commissioners for pilotage
14 services provided by the employees of the said Hamilton
15 Harbour Commissioners.

16 The Canada Shipping Act was amended
17 by 8-9 Elizabeth II, Chapter 40, assented to August 1st,
18 1960, by adding several sections and the part thereof
19 especially applicable is 375B(1), which reads as
20 follows:

21 "Notwithstanding anything in Part VI,

22 no owner or master of a vessel of
23 two hundred and fifty gross tons or
24 over shall operate his vessel

25 (a) in designated waters of the

26 Great Lakes Basin, unless the vessel
27 is piloted by a registered pilot; or

28 (b) in waters of the Great Lakes Basin

29 other than designated waters unless
30 the vessel has on board



1 (i) a registered pilot,

2 (ii) an officer having the qualifica-
3 tions prescribed by the Governor in
4 Council, or

5 (iii) a person holding a pilot's licence
6 to navigate those waters issued
7 by the Government of the United
8 States."

9 The gist of the amendment is that unless
10 the master or any one of his officers has obtained a
11 certificate of qualification, known as a B licence, the
12 vessel may not proceed through the open waters of the
13 Great Lakes without a registered pilot provided by the
14 Department of Transport or the U. S. Great Lakes
15 Pilotage Administration.

16 The port or harbour regulations are
17 defined by Section 4 of 2 Geo. V, Chapter 98, herein-
18 before referred to, which is as follows:

19 "For the purpose of this Act, the Harbour
20 of Hamilton shall be deemed to include
21 all the waters of Burlington Bay and
22 what is known as Cootes Paradise
23 together with all inlets thereof
24 (excepting, however, Burlington Channel)
25 and also all the waterfront property
26 water lots, piers, docks, shores and
27 beaches in and along the said Bay and
28 waters."

29 Control of the movement of vessels
30 is defined in the bylaws of the Hamilton Harbour



Commissioners Act, pursuant to Section 20 of that Act,
and is known as bylaw No. 79.

Tugs are made available on 24-hour
call and these are equipped with radiotelephones as is
the Harbour Master's Office which also has Seaway
teletype service. The Harbour Master's Office is
staffed from 7.00 a.m. to 12.00 midnight daily, through-
out the navigation season for the purposes of berth
allocations and for provision of port pilots.

Shipping mishaps from May 1959 showing
the dates, name of the vessel, location and description
of the mishap, repairs and cost to harbour equipment
only, and the fact that the ship is conned by a lake
pilot, harbour pilot or no pilot, is hereinafter set out.

Q. Would you please just stop there? My
lord and gentlemen, there are certain changes in this
schedule which have come to my attention, and if it will
please you, I would like to change the schedule which
now appears, and in connection with the accident dated
June 19, 1960, the HELGA SMITH, there is no documentation
to support this statement so it should be crossed out.

Over the page, the first paragraph,
June 1st, 1961, the PRINS FREDERIK WILLEM, the damage
as documented is \$1,502.34 rather than \$120. That is
at the top of the page.

The next one is \$1,300, the HARPFJELL.

MR. LALONDE: \$1,502.34.

MR. LANGS: That is for the PRINS
FREDERIK WILLEM. The next one, \$1,300, should be crossed
out and it should be \$120.



1 Going down to August 12, 1962, the
2 ALSTERTOL, there is no documentation for this, so I
3 would ask you to cross that out.

4 July 16, 1963, the LAHNSTEIN, there was
5 no pilot. Documentation shows no pilot on this vessel,
6 so that should be crossed out. Just the fact that
7 there was no pilot.

8 Now, Mr. Morgan, I believe that there
9 are records to support the shipping mishaps set out
10 in Paragraph 22? Do you wish me to file at this time
11 the records substantiating the statements set out in
12 Paragraph 22?

13 THE CHAIRMAN: I think we have a good
14 resume here. It should not be necessary to burden the
15 files with that. Perhaps counsel at adjournment
16 would look it over with you, and if they find anything
17 that is worth putting before the Commission, that is all
18 right. Otherwise, we have a good resume here.

19 MR. LANGS: Thank you, my lord.

20 Q. These figures, Mr. Morgan, are all
21 taken from the records of the Hamilton Harbour Author-
22 ity?

23 A. That is right.

24 Q. And they represent a true statement of
25 fact as they appear here?

26 A. As far as we can ascertain.

27 Q. Will you proceed, then, to Paragraph
28 23, please, at the top of page 8?

29 A. Port or harbour officials attend public
30



1 inquiries (inquests) when required so to do, in the
2 event of shipping casualties where death ensues. For
3 property damage only, port officials attend informal
4 inquiries, but attend formal inquiries only when
5 required so to do.

6 The duties of the Harbour Master are
7 specifically set out in bylaw No. 79 of the Hamilton
8 Harbour Commissioners Act, hereinbefore referred to.

9 Delays in movements of vessels, whether
10 outbound or moving within the harbour, some times occurs
11 when the lake pilot is ordered to the harbour for a
12 specific time and circumstances over which the master
13 has no control, free the vessel for movement at a time
14 prior to the specified time for arrival of the lake
15 pilot. If the local pilots are not used, and if
16 because of this non-use of the pilots the pilotage
17 system is eliminated at the local port, there will be
18 in the future great delays because of the fact that the
19 master insists on local pilots whenever the weather
20 is not normal.

21 Pilotage services are provided within
22 the harbour limits and extending to the outer limit of
23 approach from Lake Ontario by 3 pilots of the Hamilton
24 Harbour Commissioners in accordance with bylaw No. 82,
25 approved by Order in Council P.C.1960-1182, dated
26 August 24th, 1960, and amended by Order in Council
27 P.C. 1962-214, dated February 15th, 1962.

28 Because Hamilton has a deep water
29 harbour, silting which affects navigation is confined
30 to the harbour entrance (Burlington channel), and to some



1 extent in some of the slips where storm sewer outlets
2 empty.

3 Maintenance dredging was carried out
4 in the harbour entrance in 1963, the last maintenance
5 dredging having been done in 1955. The depth was
6 also increased in 1963 from 28 feet to 30 feet, the
7 total quantity removed being 160,000 cubic yards.
8 Maintenance dredging was also carried out in 1962 in
9 the Wellington Street slip.

10 Q. There has been a change here. The
11 amount of cubic yards removed is in fact what?

12 A. Twenty-four thousand cubic yards re-
13 moved.

14 Q. Instead of 20,000? Yes.

15 A. And in 1963, in the Emerald Street
16 slip, 5,000 cubic yards removed.

17 Q. Yes. Continue, please.

18 A. The only hydraulic studies or surveys
19 made in recent years other than to determine the main-
20 tenance dredging as above set out were to determine
21 requirements for new dredging.

22 Notices to mariners concerning changes
23 in aids to navigation, that is buoys, etc., in the harbour
24 are forwarded to the Department of Transport for broad-
25 cast by radio and publication on an average of three to
26 five times a year. The Harbour Master's radio-
27 telephone notifies all users of the harbour of any
28 hazards of navigation and then continues the broadcast
29 until the hazards are removed.

30 The Hamilton Harbour Commissioners have



1 three local harbour pilots. These pilots are competent
2 men, and have full knowledge of the local conditions
3 which change from year to year. These men are being
4 relegated to subservient positions for the most part
5 to six lake pilots who operate under the auspices of
6 the Department of Transport and the U.S. Great Lakes
7 Pilotage Association. These lake pilots have little
8 or no experience with the local changing conditions
9 at the port in Hamilton.

10 Q. Would you just go from there down to
11 Paragraph 36, please?

12 A. If the local harbour pilot is not used
13 regularly, the Hamilton Harbour Commissioners will have
14 to discontinue this service, and if this is done there
15 will be no towing service as the Commissioners' local
16 pilots operate both a pilot service and a towing ser-
17 vice, but the two must operate together as an inte-
18 grated service, being unable to operate economically
19 as separate services. This would be a great loss to
20 the masters of vessels, as in all cases of emergent
21 nature the local port pilot is called upon for his ser-
22 vices.

23 Q. That is it. Now, Mr. Morgan, I be-
24 lieve you have a record of the port's six-year record
25 of expansion?

26 A. That is right.

27
28
29
30



1 Q. Would you please read from that?

2 This is first of all a record prepared from the records
3 of the Hamilton Harbour Commissioners?

4 A. That is right.

5 Q. And this does set out the proper figures
6 for the gross receipts and the net assets for the five
7 years inclusive from 1958 to 1963; is that correct?

8 A. That is right.

9 MR. LANGS: My Lord, I have for the con-
10 venience of the Commission two copies.

11 Q. Would you please read from this record
12 the figures therein set out, starting with the year
13 1958, gross receipts?

14 A. Perhaps I had better read the headings
15 as well.

16 Q. Right.

17 A. Across the top of the page we have
18 the year, Hamilton Harbour Commissioners' gross re-
19 cepts for year, Hamilton Harbour Commissioners' net
20 assets as at year end, the gross harbour tonnage and
21 the overseas tonnage. There are five columns.
22 In 1958, gross receipts, \$857,258; net assets, \$11,142,642;
23 gross harbour tonnage, 6,430,076 tons; overseas tonnage,
24 38,397. That was for the year 1958.

25 For 1959, gross receipts, \$1,010,851;
26 net assets, \$12,888,451; gross harbour tonnage, 7,802,544
27 tons; overseas tonnage, \$261,764 tons.

28 In 1960, gross receipts, \$1,265,949;
29 net assets, \$15,861,045; gross harbour tonnage,
30 8,489,663 tons; overseas tonnage, 570,659 tons.



1 In 1961, gross receipts, \$1,099,897;
2 net assets, \$16,839,272; gross harbour tonnage, 8,012,083
3 tons; overseas tonnage, 451,437 tons.

4 In 1962, gross receipts, \$1,285,445;
5 net assets, \$17,066,445; gross tonnage, 8,446,027 tons;
6 overseas tonnage, 664,995 tons.

7 In 1963, gross receipts, \$1,268,970;
8 net assets, \$17,386,102; gross tonnage, 9,042,145 tons;
9 overseas tonnage, 541,795 tons.

10 With regard to 1961 receipts and
11 traffic volume were adversely affected by stevedore
12 work stoppages. This is signed by H. G. Mallion,
13 Secretary, The Hamilton Harbour Commissioners.

14 MR. JACQUES: Might he file this document
15 as Exhibit 1106, my lord?

16
17 ---EXHIBIT NO. 1106: Sheet showing the six-year
18 record of expansion of the
19 Port of Hamilton.

20 MR. LANGS:

21 Q. Mr. Morgan, I show you what appears to
22 be the financial statement of the annual report of the
23 Hamilton Harbour Commissioners for the year 1963. Is
24 that the financial statement for the Hamilton Harbour
25 Commissioners for the year 1963?

26 A. This is the printed report. The
27 financial statement will be found on page 10.

28 MR. LANGS: With the Court's permission
29 I would like to file that as Exhibit?

30 THE CHAIRMAN: 1107.

MR. LANGS: I have three copies for the



1 convenience of the Court and that will be the filed
2 exhibit.

3
4 ---EXHIBIT NO. 1107: Annual Report of the
5 Hamilton Harbour Commissioners
6 containing financial statement
7 for the year 1963.

8 Q. Mr. Morgan, is there some physical gap
9 between the districts 1 and 2 as far as the Hamilton
10 Harbour is concerned?

11 A. As far as pilots are concerned?

12 Q. Yes.

13 A. Yes, there appears to be a gap. Dis-
14 trict 1 appears to end at Cape Vincent and Kingston
15 and District 2 appears to begin at Port Weller. Lake
16 Ontario is stipulated as undesignated waters. As a
17 result the pilots of District 1 and District 2 do not
18 function there. They have what are known as lake
19 pilots -- the Authority has what is known as lake
20 pilots to operate in that area.

21 Q. These lake pilots are located where?

22 A. Well, they seem to be located for the
23 most part at Port Weller.

24 Q. In District number?

25 A. In District No. 2.

26 MR. LANGS: I have no further questions.

27 COMMISSIONER SMITH: If your lordship
28 pleases, I would like to ask the witness a question
29 to get clear in my mind the question of the separation
30 between the designated and the undesignated waters and
the authority of the pilots in so far as your Harbour is



1 concerned in that regard.

2 What is in my mind is this. We were in
3 Washington and the question was asked of one of the
4 witnesses there whether Toronto and Hamilton were con-
5 sidered designated or undesignated waters. The
6 answer was that they were designated waters, which of
7 course makes a difference in the application of the
8 various rules. Would you clarify a little, if you
9 would, that particular aspect of pilotage with regard
10 to the difference between designated and undesignated
11 waters?

12 THE WITNESS: Well, actually as far as the
13 designated waters are concerned there are certain areas
14 in the Great Lakes, certain travelled portions of the
15 Great Lakes which are designated and on which, as I
16 understand it, the ship must have a pilot whether it has
17 a B licence or an A licence.

18 COMMISSIONER SMITH: Excuse me; I did not
19 mean that aspect of it. I meant the geography of the
20 situation.

21 THE WITNESS: Oh, I am sorry.

22 COMMISSIONER SMITH: So far as your port
23 is concerned.

24 THE WITNESS: As a matter of fact Lake
25 Ontario is undesignated water and therefore the Port of
26 Hamilton in its operation of pilots latterly, the port
27 pilot is able to guide a vessel which has an officer
28 on board holding a B certificate.

29 COMMISSIONER SMITH: If the United States
30 Authority has the power -- whether they have or not, I



1 do not know; I am not sure -- if they can designate
2 Hamilton Harbour as designated waters (and it runs in
3 my mind that that is what they have done with regard
4 to both Hamilton and Toronto) what effect has that on
5 your operation?

6 THE WITNESS: It would eliminate our opera-
7 tion.

8 COMMISSIONER SMITH: Completely?

9 THE WITNESS: We would not be able to pilot
10 any vessel under the Canada Shipping Act, Section 6,
11 as it is at present constituted.

12 COMMISSIONER SMITH: Thank you very much.

13 THE CHAIRMAN: Mr. Lalonde?

14
15 CROSS-EXAMINATION BY MR. LALONDE:

16 Q. Mr. Morgan, you just stated in answer
17 to Mr. Smith that if Hamilton were to be made a desig-
18 nated harbour, a designated waters harbour, it would
19 eliminate your system; is that it?

20 A. It is my understanding that the appli-
21 cation of Part 6 would bring this about -- Part 6 of
22 the Shipping Act.

23 Q. That would be obviously unless your
24 pilots are made registered pilots for Lake Ontario?

25 A. Yes, there is this possibility, but it
26 would seem to me that in such a situation the pilots
27 would then come under some other authority and not
28 under the authority of the Hamilton Harbour Commissioners.

29 Q. I see, yes, but is it not a fact that
30 even then you would still have pilots to take ships in



1 and out of the harbour and move them from docks to docks?

2 A. This is true. There would be pilots
3 but they would not be available to operate our towing
4 service.

5 Q. I would like you to elaborate on this
6 as a matter of fact. Why do you need pilots to operate
7 a towing service?

8 A. It is a matter of economics. We are
9 not able to operate either one individually.

10 Q. You mean to say that it is because
11 not enough ships require the use of tugs in Hamilton
12 harbour?

13 A. Well, this is true. Tugs are required
14 only under adverse weather conditions and in one or
15 two slips that imposes some difficulty on navigation.

16 Q. Do your own pilots use tug services
17 when they pilot a ship or make a moveage from dock to
18 dock?

19 A. Occasionally, yes.

20 Q. As a matter of fact, is it not true
21 that in most instances the ships coming in Hamilton
22 Harbour do not use tug services?

23 A. This is correct. Nevertheless there
24 are occasions when the master feels he must have tug
25 services and if none is available then he is in some
26 difficulty.

27 THE CHAIRMAN: Would that be true for some
28 types of ships rather than other types? For instance,
29 ocean-going or lakers; which one would need more ---

30 THE WITNESS: Generally speaking it is



1 ocean vessels that need this type of service.

2 MR. LALONDE:

3 Q. Did you ever make any study as to
4 whether your tug services were employed more frequently
5 when an ocean-going ship would come into Hamilton
6 Harbour with a B certificate on board mainly -- that is,
7 whether they would use tug services more often when
8 there is no pilot on board?

9 A. Some analyses of that have been made
10 but I am not familiar with it. Another witness could
11 give you that information.

12 Q. The charges which are made for moveages,
13 etc.; they are paid by the ship. Are they paid directly
14 to the Commissioners or to the pilots in Hamilton?

15 A. The charges for port pilots?

16 Q. Yes; I refer only to these since I
17 understand you have nothing to do with the other ser-
18 vices.

19 A. No; they are paid directly to the
20 Commissioners.

21 Q. I see. Is this money handed over to
22 the pilots in toto, or is that money going into the
23 general funds of the Commissioners?

24 A. The pilots are paid an annual salary
25 and the collections go into the funds of the Commis-
26 sioners.

27 Q. I suppose they are paid an annual
28 salary to provide both a tug and a pilotage service?

29 A. This is right.

30 Q. Your view is that in order to provide



1 the tug services for the ships coming in Hamilton you
2 need the extra money -- the Harbour Commissioners need
3 the extra money from pilotage which could be done by
4 these men?

5 A. It is not only a case of needing it,
6 but it is economically unsound to try to operate either
7 service independently or without the other.

8 Q. My question is -- I will put it another
9 way. It is very clear, I hope. That is, when you say
10 it is uneconomical, you mean to say that in order to
11 operate the tug service without a loss you need the
12 extra money which the Commissioners would make through
13 pilotage dues?

14 A. That is right.

15 THE CHAIRMAN: And vice versa?

16 MR. LALONDE:

17 Q. And vice versa?

18 A. Yes, that is true.

19 Q. Do you have figures available about the
20 cost of the tug service and the earnings of the tug
21 services?

22 A. They are available. I believe they
23 are going to be given by another witness.

24 Q. All right. I understand what you refer
25 to as your three pilots are three officers or masters
26 aboard your tugs; is that correct?

27 A. Yes. They are qualified for pilot
28 duty.

29 Q. How are they qualified? Did they get
30 a licence from the Department of Transport?



1 A. I believe another witness can answer
2 this better than I.

3 Q. Yes. Do I understand that as to the
4 detailed operation of the pilotage service another
5 witness is going to be more fluent about these things?

6 MR. LANGS: Yes.

7 COMMISSIONER SMITH: While Mr. Lalonde is
8 pausing here, could I interrupt and ask a question?

9 MR. LALONDE: Please.

10 COMMISSIONER SMITH: Mr. Morgan, under the
11 Act do you have power in your Harbour, as I understand
12 it -- and interrupt me and correct me if I am misstating
13 anything -- you do have power to impose what is commonly
14 known as cargo rates?

15 THE WITNESS: That is correct.

16 COMMISSIONER SMITH: Under the authority
17 that is vested in the Act you pass bylaws creating those
18 harbour rates and making an impost; is that correct?

19 THE WITNESS: That is correct.

20 COMMISSIONER SMITH: What is the amount of
21 the impost on the cargo?

22 THE WITNESS: Well, it varies according to
23 the character of the cargo. Generally speaking it is
24 not more than 4 cents a ton. I should go further with
25 that and say 4 cents per ton of cargo loaded or unloaded
26 in the Port of Hamilton.

27 COMMISSIONER SMITH: Loaded or unloaded?

28 THE WITNESS: Yes, sir.

29 COMMISSIONER RENWICK: Is that by weight
30 or measurement?



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1 THE WITNESS: There is an amendment which
2 approves weight or measurement which is different from
3 the past practice. We have in mind applying for re-
4 moval of the measurement factor and leaving only weight.

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1 MR. LALONDE:

2 Q. I understand, Mr. Morgan, that the
3 system of lake pilots has been in operation since May,
4 1961?

5 A. To the best of my memory I believe this
6 is right.

7 Q. And in 1960 you had the system of your
8 own local pilots who are at the same time operating a
9 tug service. Is that correct?

10 A. Correct.

11 Q. I notice that in 1963 there was some
12 decrease in the total overseas tonnage in and out of
13 Hamilton compared to 1962, which itself had a substantial
14 increase over 1961. Do you know if the decrease in
15 1963, compared to 1962, was proportionate to the general
16 decrease in total St. Lawrence Seaway tonnage or total
17 harbour tonnage on the Great Lakes generally?

18 A. No, I don't think there was any re-
19 lationship. I might explain that the decrease in
20 1963 was mostly due to rail competition. Goods that
21 formerly had been moving, or commodities and different
22 types that had formerly moved up from Florida by vessel
23 now seemed to come by rail, a lot of it.

24 Q. That is the reason for the difference?

25 A. Yes.

26 COMMISSIONER SMITH: I have just one ques-
27 tion. I want to get some further information about
28 cargo rates. I am looking at the Annual Report for
29 last year. It gives the revenue broken down into various
30 items but not the amount that is received in cargo rates.



1 That might be in one other exhibit but I haven't got it
2 before me. Would you tell me what amount was collected
3 in cargo rates in your Harbour last year?

4 THE WITNESS: No, sir, I couldn't tell you
5 that. I will have to look that up.

6 COMMISSIONER SMITH: Thank you.

7
8 CROSS-EXAMINATION BY MR. BRISSET:

9 Q. Mr. Morgan, would you refer to your
10 Exhibit 1106, the record of expansions of the Port. In
11 the last two columns you refer to gross harbour tonnage
12 and overseas tonnage. Would you tell us what tonnage
13 is referred to there? Is that the tonnage of the
14 goods loaded or unloaded, or the tonnage of the ships?

15 A. All of these are goods loaded or un-
16 loaded.

17 Q. And you include in there, as you just
18 said, goods either loaded or goods unloaded?

19 A. That is right.

20 Q. Have you records of the number of
21 ocean ships that have called at your port during that
22 period between 1958 and 1963?

23 A. I refer you to page 11 of this printed
24 report.

25 THE CHAIRMAN: Exhibit 1107.

26 THE WITNESS: At the bottom of page 11 there
27 is the designation "Vessel arrivals from overseas".
28 The arrivals for 1958 through 1963 are listed across
29 the page.

30 MR. BRISSET:

Q. Thank you very much. Mr. Morgan, if



1 I understand the brief of your Commission correctly, and
2 if I may summarize your thoughts on the topic, I
3 understand that the Commission would like to have full
4 control of and supervision over pilotage within the
5 limits of your harbour, and that would entail having
6 the pilots in the service of the Commissioners fixing
7 the rates, fixing their pay, and despatching them. Is
8 that a proper summary of your position?

9 A. With one amendment it is correct, and
10 that is beyond the limit of our harbour through Burling-
11 ton Channel to the Fairway buoy.

12 Q. Where the services of the pilot perform-
13 ing for your Commissioners would end or commence?

14 A. That is right.

15 Q. Now you have been operating under that
16 system until what time?

17 A. Until?

18 Q. What year?

19 A. We are still in operation. We are
20 setting up to do 1964 at the moment.

21 Q. By that I mean you are operating the
22 pilotage service of your harbour exclusively from 1959
23 up to what time?

24 A. Actually exclusively it is difficult
25 to fix the date when the Department and the pool pilots
26 started to function. I believe that was in the
27 vicinity of 1960 or 1961.

28 Q. Or 1961 when the legislation came into
29 effect?

30 A. That is right.



1 Q. So between 1959 and some time in 1961
2 you did operate the pilotage service within the limits
3 of your harbour?

4 A. That is right.

5 Q. Now what can you say to this Commission
6 with respect to the effectiveness of that service and the
7 satisfaction derived from it by the ships using it?

8 A. The masters of many ships, we received
9 their high praise as a matter of fact for providing
10 service which was not available except in one other
11 port. Since then they have expressed some dissatis-
12 faction with the idea they are obliged to take other
13 pilots.

14 Q. In other words, from the type of ser-
15 vice which was entirely satisfactory up to 1961 your
16 Harbour has become involved in the complexities of
17 pilotage on the Great Lakes and the problems that are
18 attached to it?

19 A. Exactly.

20 Q. Problems that are related to dual
21 jurisdiction, dual nationalities of pilots operating in
22 the harbour, and all that that entails. Is that not it?

23 A. I think perhaps you have expressed it.

24 Q. Now, Mr. Morgan, in paragraph 2 you
25 state: "Having operated the pilotage service in the
26 Port of Hamilton beginning in 1959, the Hamilton Harbour
27 Commissioners found intolerable the subsection amending
28 Part VI of the Canada Shipping Act which forbids their
29 fully competent and experienced pilots to act as pilot
30 of any ship in undesignated waters of Hamilton Harbour



1 and entrance thereto, unless the ship's master or other
2 officer on board is the holder of a "B" certificate or
3 unless a pilot registered by the Department of Transport
4 is on board."

5 Now, am I correct in assuming that the
6 statement here is based strictly on an interpretation of
7 subsection (b) of section (1) of Article 375B, which
8 you quote on pages 4 and 5?

9 A. I don't understand the question, I am
10 sorry.

11 Q. What is stated in paragraph 2 of your
12 brief, and which I have just read, is based, is it not,
13 on the interpretation given to subparagraph(b) of
14 Article 375B, subsection (1). That is correct?

15 A. That is right.

16 Q. The Harbour of Hamilton is, of course,
17 located in undesignated waters of the Great Lakes?

18 A. That is right.

19 Q. I would like now to refer you to
20 Section 375B, subsection (1), sub-subsection (b):

21 "In waters of the Great Lakes Basin
22 other than designated waters, unless
23 the vessel has on board (i) a registered
24 pilot, (ii) an officer having the quali-
25 fications prescribed by the Governor in
26 Council."

27 I stop here. Am I not right in understanding from your
28 brief that when you refer to an officer you have in mind
29 an officer who is a member of the crew, a regular member
30 of the crew?



1 A. Which crew?

2 Q. Of the crew of the ship that is to be
3 piloted?

4 A. Yes, that is right.

5 Q. Would you consider -- and I say this
6 asking you at the same time not to hesitate to tell me
7 if I am asking too purely a legal question -- would you
8 consider the word "officer" could apply to your pilots
9 if they had the qualifications required by the Governor
10 in Council?

11 A. I would think so, yes.

12 Q. In other words, the officer referred
13 to in that subsection does not have to be a regular
14 officer of the ship, belonging to the regular complement
15 of the ship?

16 A. Well, I direct your attention to the
17 preamble in B "unless the vessel has on board".
18 Now I think the usual interpretation is that it is a
19 member of the crew. Now this is open to argument, of
20 course.

21 Q. I might mention to you, Mr. Morgan, at
22 the hearing before the Committee that studied the bill
23 a proposal was made to describe the word "officer" as
24 a member of the regular complement of the crew and that
25 proposal was turned down as the legislators did not want
26 that at all.

27 I refer you to paragraph 3 which reads:
28 "A person holding a pilot's licence to navigate these
29 waters issued by the Government of the United States."
30 When this section referred to "pilot" did you read this



1 to mean "registered pilot"?

2 A. Would you repeat that, please?

3 Q. Subsection (iii) "a person holding
4 a pilot's licence to navigate these waters issued by
5 the Government of the United States." Do you read the
6 word "pilot" as meaning registered pilot?

7 A. Well, it has been the general inter-
8 pretation, I think.

9 Q. I might mention to you at the same
10 Committee hearing the qualifications of the word "pilot"
11 by the word "registered" was also turned down.

12 Are you aware, Mr. Morgan, that in the
13 United States all officers, or these people we call
14 mates, masters, and officers aboard Canadian ships are
15 all called pilots and have pilot's licence?

16 A. On Canadian ships?

17 Q. On American ships?

18 A. No, I am not aware of that.

19 Q. Mr. Morgan, I want to refer you to
20 paragraph 23 of your brief.

21 A. Yes.

22 Q. Where you say "port or harbour officials
23 attend public inquiries (inquests) when required so to
24 do, in the event of shipping casualties where death
25 ensues."

26 Have there been any such inquiries, say,
27 since the opening of the St. Lawrence Seaway?

28 A. Not in connection with any pilotage
29 of a vessel but there has been one internal in the
30 harbour not connected with pilotage.



1 Q. Now in the case of property damage will
2 your Commission makes its own investigations?

3 A. To this extent that officials of the
4 Commissioners will look into the matter and consult with
5 underwriters and such persons and of course with the crew,
6 or at least the officers of the ship or ships involved.
7 The inquiries, however, are inclined to be informal and
8 therefore our concern is mostly with what might be held
9 against the Commissioners and we make these informal
10 inquiries for the purpose of establishing in our own
11 minds whether there is any liability on the part of the
12 Commissioners. Having done so we confer with our own
13 insurance people to try to establish with them the
14 matters involved.

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1 Q. Would it be correct to state that one
2 of the purposes of the investigation you might carry
3 on would be to find ways and means of correcting a
4 situation or improving, say, an installation, or safety
5 of navigation generally if that is involved?

6 A. You could say that. Our main object,
7 of course, at all times is to prevent these accidents or
8 any recurrence of them.

9 Q. Now, during the years that you have had
10 pilots operating within the limits of the harbour, have
11 you conducted any investigation, any casualty, which
12 might have resulted from, say, negligence on the part of
13 the pilot? Has there been any such instance?

14 A. Well, there have been occasions when
15 we felt that the pilot used poor judgment.

16 Q. Now, has there been any disciplinary
17 measure taken against the pilot in such a case?

18 A. Well, we were not able to do so because,
19 in all cases that I recall, they were not our own pilots
20 that were involved.

21 Q. If they had been your own pilots, I
22 suppose that some action would have been taken, either
23 a reprimand or other measure might have been taken?

24 A. Yes, of course.

25 Q. That is a jurisdiction you lack at the
26 moment in respect of the lake pilots that come and
27 operate within the limits of your Harbour?

28 A. That is correct.
29
30



1 CROSS-EXAMINATION BY MR. JACQUES:

2 Q. Mr. Morgan, I refer you to supplemen-
3 tary material to your report, page 11, where you list
4 vessel arrivals from Canadian and U.S. ports and from
5 overseas. Do I take it that from Canadian and U. S.
6 ports you would include only vessels plying the lake
7 trade and coastal trade?

8 A. That is right.

9 Q. And from overseas it would be ocean-
10 going ships?

11 A. That is right.

12 Q. Now, sir, your brief states in paragraph
13 15 that with the opening of the navigation of the Seaway
14 in 1959 you inaugurated a pilotage service. Now, would
15 you tell us whose idea it was; how it came about that
16 this service was ever set up by your Commission?

17 A. Well, it was mostly at the request of
18 masters of vessels, either expressed directly or through
19 their agents.

20 Q. I see. That the service was set up ---

21 A. I mean the masters of overseas vessels.

22 Q. At that time did you consult with the
23 Department of Transport officials?

24 A. I can't recall whether we did or not.
25 We did to this extent, of course, that as soon as we
26 were ready to operate, we made application for approval
27 of our bylaw, to make charges for these -- in fact we
28 made application for approval of a complete operating
29 bylaw, but the Department of Transport or the Department
30 of Justice in its wisdom changed the bylaw to refer only



1 to the charges to be made.

2 Q. I see. Have you ever requested that
3 your pilots be registered or issued with a licence by the
4 Department of Transport?

5 A. No, we have not. We discussed this
6 with departmental officials. There have been some
7 conversations on this point, but nothing has come of it.

8 Q. Nothing has come of it?

9 A. No.

10 COMMISSIONER SMITH: Prior to 1960, am I
11 right in assuming that the lakers plying in and out of
12 Hamilton harbour did not require any pilots?

13 THE WITNESS: This is true. With the
14 ease of navigation under normal conditions, these lakers
15 did not seem to need any pilotage service.

16 COMMISSIONER SMITH: No demand for it?

17 THE WITNESS: No demand for it.

18 MR. JACQUES:

19 Q. In 1958 you had deep sea ships calling
20 in Hamilton, did you not?

21 A. That is right.

22 Q. Who or what services were there with
23 respect to pilotage then?

24 A. I cannot recall that there was any at
25 that time. Whether any was provided by local shipping
26 companies, I cannot say, but there was none by the
27 Hamilton Harbour Commissioners.

28 Q. Did you participate in the recruiting
29 of pilots yourself, or was that done ---

30 A. It was done through our Harbour Master.



1 Q. Who set the qualifications required for
2 your pilots?

3 A. The qualifications are those established
4 by the Harbour Master in the authority of his operation.

5 Q. Do you have any figures with respect to
6 the number of jobs done by each pilot? By "job" I mean
7 pilotage in and out or moveages?

8 A. I believe the Harbour Master will be
9 called, and he will give these figures.

10 Q. I see, thank you. Are the same three
11 pilots who were hired in 1959 still in your employ?

12 A. Yes.

13 Q. In paragraph 31 of your brief, on page
14 9, you refer to local conditions which change from year
15 to year. Would you be able to explain what you mean
16 more fully by these changes? What local conditions and
17 the extent of the changes?

18 A. Well, I can generalize in this way:
19 our entrance at one time had two draws in and out, and
20 through an accident some years ago one of these moveable
21 bridges was knocked out, and replaced with a fixed bridge.
22 This was one change that became necessary in which
23 vessels going in and out had to pass through the same
24 draw.

25 Subsequently a couple of years ago the
26 fixed bridge was removed for the purpose also of re-
27 moving the swing bridge, the railroad swing bridge, which
28 was there, and the other bascule bridge, and replacing
29 them with a vertical lift bridge. Some traffic in the
30 meantime having been carried over the high level bridge,



1 the Skyway Bridge, but the remaining traffic, local
2 traffic, was changed to be carried on a vertical lift
3 bridge, and after the removal of the fixed bridge on
4 the north draw, there was a condition there in which there
5 was not sufficient depth for most vessels, and so the
6 vessels during that period had to continue to go through
7 the south draw, as in recent years, and in one instance
8 a U. S. pilot took a vessel through the north draw, and
9 the vessel scraped the bottom and sustained indeterminate
10 damage, which was not apparent at the moment anyway,
11 and it would have to be examined at some future time.
12 This is one condition.

13 Then, of course, removal of the centre
14 pier or the middle pier of the entrance followed, and
15 dredging followed, and of course great improvements were
16 made.

17 There are, however, certain shoaling
18 effects which are immediately inside the harbour en-
19 trance which have to be watched from time due to shifting
20 currents moving through the entrance, and our own pilots
21 are quite familiar, and as a matter of fact Notices
22 are sent out, of course, to all shipping that these
23 hazards or possible hazards exist.

24 Generally speaking any pilot should be
25 aware, if he is up to date on his Notices, or if he
26 examines his chart and reads it properly, but in some
27 cases we find this is not so.

28 Q. Now, would the lake master be aware of
29 these changes?

30 A. The which?



1 Q. The lake master.

2 A. Well, the lake pilots ---

3 Q. No, the master of a ship?

4 A. Oh, yes. Generally speaking they are
5 more cognizant with local conditions than the overseas
6 vessels are.

7 Q. But he would have sufficient local
8 knowledge to avoid, let us say, the shoals which you say
9 are created inside the entrance?

10 A. He would have through his Notice to
11 Mariners which would be broadcast immediately such a
12 situation developed -- he would be able to ascertain
13 that there was a problem there.

14 Q. And throughout all these changes with
15 respect to the entrance of the harbour, you kept broad-
16 casting Notices?

17 A. We advise the Department of Transport
18 to broadcast the notices.

19 Q. Would you have a radio-telephone system?

20 A. We have a radio-telephone system, but
21 not for that purpose. It is mostly for the guidance of
22 ships. We do, if a ship has indicated that it is about
23 to enter, we do carry on and give some information at this
24 time.

25 Q. I refer you to paragraph 30 of your
26 brief which reads as follows: "The Harbour Master's
27 radio-telephone notifies all users of the harbour of any
28 hazards of navigation and then continues the broadcast
29 until the hazards are removed."

30 A. As I have just said, as ships appear



1 and indicate their desire to enter, we advise them of
2 any difficulties in that way.

3 Q. And by your bylaw, the ship has to
4 report before she approaches Burlington entrance?

5 A. This is usually the case, yes.

6 Q. Is it at that moment that the informa-
7 tion is given?

8 A. The information is given at that time.

9 Q. It is passed on to the ship at that time?

10 A. Yes.

11 Q. Has the question of liability of the
12 Harbour Commissioners for negligence of pilots, of
13 your own pilots, ever been discussed?

14 A. Well, we have been told by the Depart-
15 ment of Transport that -- let me go back. We drew up
16 a waiver for the use of our pilots. That is, that it
17 should be signed by the master since he ordered the pilot.
18 We submitted this waiver to the Department of Transport
19 officials, and were told that this waiver was in fact
20 not necessary, that in any case the master was respon-
21 sible for the safety of his ship. However, we continue
22 to use the waiver in spite of that.

23 Q. You are still using the waiver?

24 A. Still using it.

25 Q. Would you be kind enough to supply us
26 with a copy of your waiver, please?

27 A. I don't know whether we have it with
28 us today. We would be pleased to forward it though.

29 MR. JACQUES: Would you file this waiver
30 as Exhibit 1108?



1 ---EXHIBIT NO. 1108: Waiver (Hamilton Harbour
2 Commissioners).

3 Q. Now, are you familiar with the condi-
4 tions of employment of your pilots?

5 A. I think we have an answer -- you mean
6 in regards to salaries?

7 Q. In regards to salaries, welfare plan
8 and what not. Do they have a pension?

9 A. Our salaries are set according to the
10 capability of the person, and his qualifications, and
11 are not generally speaking fixed in any degree. I do
12 not know that I can call off an exact amount. We can
13 get this information though.

14 Q. I would appreciate your obtaining it
15 since 1959, when your service was inaugurated.

16 A. Yes.

17 Q. Stating the annual gross earnings of your
18 pilots, and also stating deductions which are made by the
19 Commissioners, and stating also the value of any benefits
20 which they may have, say, by way of insurance or pension
21 fund and what not, as Exhibit 1108.

22 THE SECRETARY: 1109.

23 ---EXHIBIT NO. 1109: Statement of gross earnings,
24 deductions and benefits.

25 Q. What is their normal work week? Is it
26 a 50-hour work week or 40-hour work week?

27 A. I believe the Harbour Master can answer
28 this better than I.

29 Q. Now, what was the primary reason for
30



1 setting up your pilotage service? Was it because you
2 feared for the harbour installations, or was it to pro-
3 vide a more efficient and also a speedier turn-around
4 of vessels in the harbour?

5 A. Well, it was a combination of both.
6 We found that vessels were inclined to wait outside the
7 entrance until somebody came out to help them in; not,
8 I might say, through any particular difficulty which the
9 entrance might entail in good weather, but under con-
10 ditions of bad weather particularly, there seemed to be
11 delays. There would be calls to the Harbour Master's
12 office for a pilot, and it dawned on us very early that
13 we were going to have to do something about it.

14 Q. Do you have linesmen on your dock to
15 handle lines?

16 A. Not employed by the Commissioners. The
17 vessel agents have been looking after that.

18 Q. I see. To the best of your knowledge
19 is the landing boom ever used in Hamilton?

20 A. I believe so. I think the Harbour
21 Master might be more clear on that.

22 MR. JACQUES: Thank you, sir.

23 COMMISSIONER SMITH: Mr. Morgan, I understand
24 that dredging carried on in 1962, I think it was, brought
25 the depth of water in the harbour to 30 feet?

26 A. That was in the entrance.

27 COMMISSIONER SMITH: In the entrance?

28 THE WITNESS: Yes. Beyond the entrance,
29 sir, it goes as deep as 80 feet inside the harbour. The
30 only dredging required in addition to that entrance



1 itself, is in the slips.

2 COMMISSIONER SMITH: What do you call
3 Burlington Channel?

4 THE WITNESS: Burlington Channel is a
5 harbour entrance.

6 COMMISSIONER SMITH: That is the entrance?

7 THE WITNESS: Yes.

8 COMMISSIONER SMITH: That is the place that
9 requires some maintenance dredging?

10 THE WITNESS: Actually, yes, widely though;
11 at quite long intervals. I believe it is some eight
12 years previous to that.

13 COMMISSIONER SMITH: I noticed somewhere here
14 that the dredging was done in 1955, I think, to 28 feet.

15 THE WITNESS: And then again in 1962.

16 COMMISSIONER SMITH: To 30 feet?

17 THE WITNESS: That is right.

18 COMMISSIONER SMITH: Thank you.

19 THE WITNESS: If I could elaborate on that
20 a little. The idea of the deeper depth, you might
21 think with the Seaway being 27 feet, 28 feet might be
22 sufficient, but this is on account of the surge in
23 the channel itself that the extra two feet were added
24 in 1962.

25 BY MR. JACQUES:

26 Q. One last question, sir. Have you
27 ever received any comments or complaints or was any op-
28 position to your pilotage system ever made by the U.S.
29 authorities?

30 A. I don't believe we have ever had any



1 contact with them.

2 MR. JACQUES: Thank you.

3
4 BY MR. BRISSET:

5 Q. You were asked by my friend whether
6 you consulted anybody when you organized your pilotage
7 service. Do you recall having had a visit of Captain
8 Matheson of the Shipping Federation of Canada to discuss
9 pilotage in your harbour way back in 1958 or 1959?

10 A. Yes, I recall that Captain Matheson
11 came and visited and discussed this very matter.

12 BY MR. LALONDE:

13 Q. Mr. Morgan, I refer you to paragraph
14 22 of your brief. There are some 20-odd mishaps
15 mentioned there. I have been looking through various
16 documents which your counsel has referred to as support-
17 ing these mishaps, and I do not find anything in connec-
18 tion with the three incidents concerning lake pilots.
19 That is on page 7, the incident of September 27, 1962,
20 November 30, 1962, and April 23, 1963.

21 MR. LANGS: I may be able to answer my friend.
22 I have just ascertained that it will be only from memory
23 of the Harbour Master who may speak to the first two, and
24 we have letters in connection with the third one, which
25 is the SILVIA collision with the YILDUN.
26
27 -
28
29
30 -



1 MR. LANGS: Of course, the first two would
2 have been reported to, I suppose, the District.

3 MR. LALONDE: Yes, but the Commission itself
4 is not in a position to make a statement as to this
5 except from memory and, as far as the third one, the
6 letter you have referred to.

7 THE WITNESS: My lord, I was referring to
8 the first of these three a few minutes ago in response
9 to an inquiry from the counsel for the Department.

10 THE CHAIRMAN: For the Commission.

11 MR. JACQUES: I am sorry -- to the Commis-
12 sion not to the Department.

13 THE WITNESS: I am sorry.

14 MR. LALONDE: Since 1961 would it be correct
15 to say that your pilots -- that is, Hamilton Harbour
16 pilots themselves, whatever pilotage they have been doing
17 have been doing moveages in the harbour itself, mainly?

18 THE WITNESS: Well, no. You mean to the
19 exclusion of moveages in and out?

20 MR. LALONDE: Yes. What have they been
21 doing -- moveages in and out also?

22 THE WITNESS: Yes, moveages in and out in
23 the majority.

24 MR. LALONDE: You said that you had com-
25 plaints -- you stated this in your brief and I think
26 you stated it before in your evidence -- from masters
27 since 1961 about the operations. Well, you said
28 "complaints"; you did not say from whom. Have these
29 been from agents or from masters of ships?

30 THE WITNESS: Did I use the word "complaints"?



1 MR. LALONDE: Well, you might have. I may be
2 putting words in your mouth. What should be the word?

3 THE WITNESS: Well, dissatisfaction I think
4 was the word I used.

5 MR. LALONDE: Dissatisfaction, then. How
6 did this come to your knowledge?

7 THE WITNESS: Actually through the agents
8 themselves.

9 MR. LALONDE: Agents for Hamilton Harbour?

10 THE WITNESS: Yes.

11 MR. LALONDE: These have been verbal com-
12 plaints?

13 THE WITNESS: Yes; we have nothing in
14 writing.

15 MR. LANGS: I have no further questions.

16 THE CHAIRMAN: No further questions of
17 Mr. Morgan?

18 We will adjourn for ten minutes.

19 ---Short recess.
20

21 FLOYD C. DAY, sworn
22

23 DIRECT EXAMINATION BY MR. LANGS:

24 Q. Mr. Day, you are the Harbour Master at
25 the Hamilton Harbour?

26 A. Yes, sir.

27 Q. How long have you been with the local
28 Authority?

29 A. Nineteen years.

30 Q. What is your background as far as your



1 present position is concerned in qualification of your
2 present position?

3 A. You mean, since I have been with the
4 Commission?

5 Q. Well, start with any services which
6 would give you the qualifications to act in your present
7 position.

8 A. Well, I started to sail in 1925 and I
9 had a mate's inland licence, if that is what you are
10 referring to. I was superintendent Marine Dockyard
11 for the Harbour Commission; then I was Deputy Harbour
12 Master and then I was Harbour Master. I also have
13 done pilotage -- do pilotage.

14 Q. You have also what?

15 A. Do pilotage in the harbour.

16 Q. In paragraph 16 of the local authority's
17 brief it is set out there that almost without exception
18 the masters of vessels have expressed confidence in
19 the competence of the local pilots and insist that this
20 service should be continued. Can you tell the Com-
21 mission from advice received from you and from any
22 other source how you know this or if it is a fact?

23 A. Well, in conversation with various
24 captains. That is how I know it. They have told me
25 they are satisfied with our service and they would like
26 to see it continued as most any port in the world they
27 go into there is a local pilot who knows the conditions
28 and so on.

29 Q. So from your conversations with them
30 you are told that in other world ports other than in



1 Canada local pilots operate almost entirely?

2 A. That is correct.

Paragraph

3 Q./ 21 of the brief sets out the fact that
4 tugs are available and speaks of the teletype services
5 and the staffing of the Harbour Master's office. Is it
6 a fact that there is a dual purpose served within the
7 harbour by the pilots in that the pilotage service and
8 the tug boat service are integrated?

9 A. That is true.

10 Q. I show you here the summary of revenues
11 and expenses for pilotage and associated services which
12 is a record from 1959 to 1963 showing the revenues and
13 the expenses in connection with towage, pilotage and
14 harbour control Do those figures set out the true
15 facts in connection with those items?

16 A. Yes, they do, to the best of my know-
17 ledge.

18 MR. LANGS: I would ask that this be filed
19 as an exhibit.

20 ---EXHIBIT NO. 1110: Summary of revenues and ex-
21 penses for pilotage and
22 associated services.

23 MR. LANGS: I have further copies here for
24 the use of the Court.

25 Q. Would you please read the figures com-
26 mencing with the column on the pilotage and the harbour
27 control?

28 A. In 1963 the towing revenues were
29 \$11,113; the expenses were \$15,998. In 1962 the revenue
30 was \$2,350; the expenses were \$5,387.



1 I might explain that in the pilotage
2 in 1961, 1960 and 1959 the services were provided by
3 the motor vessel Macassa. She is also a small passenger
4 boat. She did dual service, in other words.

5 In 1963 pilotage revenue was \$20,890
6 and expenses were \$30,672. In 1962 the revenue was
7 \$28,700 and expenses were \$27,145. In 1961 the revenues
8 were \$17,772 and expenses, \$17,464. 1960 revenues were
9 \$24,162 and expenses \$17,310. In 1959 the revenues
10 were \$8,133 and expenses \$4,203.

11 The harbour control for 1963, expenses
12 \$14,915; 1962, \$15,773; 1961, \$7,936 and 1960, \$3,822.

13 Q. Thank you.

14 Paragraph 22 of the brief states the
15 shipping mishaps from May 1959 showing the date of the
16 mishap, the name of the vessel, the location and
17 description and the repair cost. It then shows whether
18 or not the vessel had a lake pilot, a harbour pilot or
19 no pilot at all.

20 I believe my friend Mr. Lalonde has
21 looked through the invoices which were stated to sub-
22stantiate the record as herein set out and on page 7
23 there are three vessels all of which were operated by
24 lake pilots where we do not appear to have an invoice
25 to substantiate this record. The first one is
26 September 27th, 1962 -- I do not know how to pronounce
27 this.

28 A. PATIGNIES

29 Q. There is a record here that it proceeded
30 through the wrong side of the Burlington Channel. Have



1 you from your recollection knowledge of this mishap?

2 A. A harbour pilot was ordered for this
3 vessel and was on his way out. On board was, I think,
4 a District 2 pilot. He did not wait for the harbour
5 pilot and proceeded in on his own and came up the
6 wrong side of the channel. He rubbed the bottom but
7 he got through all right. It was amazing because we
8 did not think there was that much water in it, but he
9 got through all right and came on in. Then he picked
10 up the harbour pilot inside.

11 Q. On November 30th there is the M.V.
12 DAGAN.

13 A. In that case there was no harbour pilot.
14 The lake pilot left the terminal in very dense fog and
15 he went aground making Burlington Channel lakebound.
16 We had to get the tugs to pull him off.

17 Q. Then on April 23rd, 1963, the Motor
18 Vessel Silvia.

19 A. The Silvia was coming across from Port
20 Weller. Her agents ordered a harbour pilot. She had
21 a lake pilot on board. The harbour pilot went out.
22 It was at night, if I recall. He went aboard and
23 brought her in. The wind was at the northeast of her
24 30 miles an hour. She had a bust on her starboard
25 side which would interfere with loading, so the master
26 did not want her to come into the harbour and land
27 starboard side to but he should land port side to.
28 There was also one vessel in the slip that would have
29 to be passed. In order to bring her to the coal dock
30 he would have to take her down in the slip -- warp her



1 around, take her down the slip and run lines and take
2 her across. When they tied up at the coal dock the
3 master of the Silvia said: "I want to stay here for
4 the night; it is blowing too hard." That was fine.
5 Our pilot said: "Will you want a harbour pilot in the
6 morning?" He said: "No, but I will want a tug boat
7 at six o'clock."

8 At six in the morning the tug boat was
9 there. The tug master went aboard to get a waiver
10 signed which we had for our tow boats for no pilot,
11 and asked him again, did he want a harbour pilot, be-
12 cause we had one on board the tug. He said that No,
13 the lake pilot was going to put her round.

14 He spoke to the lake pilot, the tug
15 master did, and he said: "Now, what do you want me to
16 do with the tug -- pull you round by the bow, push you
17 port forward?" The lake pilot said No, I just want
18 you to stand off. I am going to let go and come in
19 on the fly, as they call it.

20 So he let go and the wind was around
21 four to five; that is about 40 knots. He came in and
22 he rammed the Yildun in No. 4 berth in the slip and did
23 considerable damage.

24 The only reason I can figure he let
25 go and came in that way is that he gets \$25 for un-
26 docking and he gets \$25 for docking, but nothing for
27 warping. If he had warped her round the slip with
28 her wires, it would be the proper procedure to do. I
29 mean, you have a vessel alongside this and it is just
30 a matter of warping her, and you had a tow boat there to



1 push her.

2 MR. LALONDE: I object for the record, my
3 Lord. This is purely hearsay. The whole story here
4 is purely hearsay and expression of opinion as to what
5 was the reason.

6 MR. LANGS: My Lord, this is a qualified
7 man.

8 Q. Where did you learn of this that you
9 are telling us about? Were you there or not?

10 A. No. I learned it from the tow boat
11 master and the pilot.

12 Q. Can you from this record of mishaps,
13 Mr. Day, give us any further information with respect to
14 how these accidents happened? Can you refer to any
15 others in this list?

16 A. Well, I think that -- you see, most of
17 these have happened going into what we call Wellington
18 Street slip. At times there is a cross-current there.
19 I think these masters who do not use pilots; that is
20 where they are going to run into trouble.

21 Q. How many pilots are we really dealing
22 with as far as our Hamilton operation is concerned --
23 lake pilots?

24 A. Six -- I think six.

25 Q. Do you know how these men operate?

26 A. Well, they are despatched by Port
27 Weller and Cape Vincent. Port Weller will ask us on
28 the teletype how a certain man is arriving and will we
29 give him instructions to go to another vessel?

30 However, they seem to be in a race at



1 times. For instance, a man will bring a ship from
2 Toronto to Hamilton and he will not report into Port
3 Weller. He will stay with the ship probably. They
4 will ask us if we have seen him. We have not seen him.
5 Of course, he does not come under our jurisdiction.
6 We do not know. He may be staying aboard that vessel
7 because she is going to be due out in three or four
8 hours, which will net him another fee. This goes on
9 most of the time amongst them.

10 -

11 -

12 -

13 -

14 -



1 Q. I believe you also have, Mr. Day, a
2 yearly comparative statement of pilotage?

3 A. Yes.

4 Q. A record taken from the records of the
5 Hamilton Harbour Commissioners?

6 A. Yes.

7 Q. And to the best of your knowledge is
8 this a true record?

9 A. That is right.

10 MR. LANGS: My lord, I would ask this
11 be filed as an exhibit.

12 THE CHAIRMAN: Exhibit 1111.

13 Q. Now this is a record from the year
14 1959 to 1963 showing the total number of ships piloted,
15 total pilotage invoiced, and the total pilot boat
16 invoiced?

17 A. Yes.

18 Q. Would you just read the figures stated
19 there, Mr. Day?

20 A. In 1959 the total number of ships
21 piloted -- 293; pilotage invoiced, \$7,673; pilot boat
22 invoiced at that time were not available. I might
23 explain this is my own record.

24 Q. This is your own record?

25 A. That is correct. The other is from
26 our accountant, the previous one. 1960, the number
27 of ships piloted -- 525; pilotage invoiced \$13,357;
28 total pilot boat invoiced \$11,200. In 1961 the number
29 of ships piloted -- 332; total pilotage \$10,515; total
30 pilot boat invoiced \$7,540. In 1961 there are the



1 remarks, a seven-week longshoremen's strike, no movement
2 of vessels. In 1962 the number of ships piloted -- 492;
3 total pilotage invoiced, \$15,258; total pilot boat in-
4 voiced, \$13,768. There is an explanation in the
5 remarks: "Pilot boat running lines raised from \$10
6 to \$15 and raised from \$15 to \$18." I might point out
7 that in the total pilot boat invoiced there are also
8 fees for running lines across, plus putting the pilot
9 on and taking him off.

10 In 1963 the total number of ships
11 piloted -- 376; total pilotage invoiced, \$11,817; total
12 pilot boat invoiced, \$8,898.

13 Our pilotage is down due to the number
14 of moves made by lake pilots in and out of the harbour;
15 also inner harbour work. The number of moveages made
16 by lake pilots for 1963 amounts to 201.

17 Q. Paragraph No. 25 of the brief mentions
18 delay in movements of vessels. Can you relate those
19 delays in any way to the operation of the lake pilots
20 as opposed to the local harbour pilots?

21 A. In regards to when a lake pilot is
22 ordered off a vessel at a certain time by the Agent
23 there are times when the vessel will finish discharging
24 or loading may be two hours before the time allotted
25 for the lake pilot to arrive. It means the vessel is
26 waiting for the lake pilot, which is no fault of the
27 lake pilot I might point out.

28 Q. In Paragraph 32 of the brief it states
29 that because of the fact that lake pilots are serving
30 apprenticeship in order to advance to the level of



1 pilot in District No. 1 there will never be permanent
2 lake pilots and therefore there will never be exper-
3 ienced lake pilots for the local harbour. Would
4 you explain that, please?

5 A. Well, what happens is a lake pilot,
6 as I understand it, when there is an opening in District
7 1 he moves to it and then we get a new lake pilot and
8 we have found some of the lake pilots just don't know
9 the harbour. As an example, if I may, last year we
10 had a ship coming up from Cape Vincent with a lake pilot
11 aboard. He called in and we asked him if he wanted a
12 harbour pilot. He said no, he could get in the harbour.
13 He got in the harbour and he looked and saw the dredging
14 going on and he dropped hook and wanted a harbour pilot.
15 The result of it was the ship was delayed two hours
16 before it got out.

17 Q. My friend Mr. Lalonde asked whether or
18 not there were complaints about lake pilots and I think
19 Mr. Morgan said there was dissatisfaction. Could you
20 say as to whether or not there is dissatisfaction with
21 lake pilots?

22 A. For some of them.

23 Q. And who are these?

24 A. The American pilots. The Canadian
25 pilots apparently do a good job. We have harbour moves
26 that require a B man aboard. We send to Port Weller
27 and they insist the harbour pilot is aboard also from
28 Wellington Street to the east end of the harbour, a
29 distance of two miles or something like that, because
30 they don't trust the lake pilot.



1 THE CHAIRMAN: Is that done with the
2 Canadian pilots or American pilots, or both?

3 THE WITNESS: The point is, my lord, they
4 don't know who they are getting. You can't choose.

5 THE CHAIRMAN: They are supposed to be all
6 equally qualified.

7 THE WITNESS: Well, a lot of these masters
8 have had trouble with American pilots.

9 THE CHAIRMAN: When you say "American
10 pilots" do you mean lake pilots?

11 THE WITNESS: My experience is lake pilots.

12 THE CHAIRMAN: The three?

13 THE WITNESS: Yes.

14 THE CHAIRMAN: That is coming from District
15 No. 1?

16 THE WITNESS: Yes.

17 THE CHAIRMAN: Lake Ontario?

18 THE WITNESS: Yes. At one time the District
19 1 pilot used to come across the lake to Hamilton and
20 also District 2, but I will say that District 1 and 2
21 pilots, particularly District 1, they never bring a
22 ship into the Hamilton Harbour. They always call for
23 a harbour pilot. District No. 2, 95 per cent ask for
24 a harbour pilot.

25 MR. LANGS: Can you give any explanation
26 of that?

27 A. They claim they haven't been up there
28 in a long time and don't know what was going on inside.

29 THE CHAIRMAN: Would that be esprit de
30 corps?



1 THE WITNESS: It could be, my lord.

2 MR. LANGS:

3 Q. You state the lake pilots were really
4 training for a more permanent job in the district. How
5 do they live during the spring, summer, and fall?
6 Where are their homes and where do they live and where
7 do they eat and so on?

8 A. Well, they sleep and eat aboard the
9 vessel they are on and when they arrive to the port
10 they are getting off they generally report back to
11 Port Weller and stay at a hotel, in St. Catharines,
12 I believe, and report to Cape Vincent.

13 Q. Can you think of any risks, let us say
14 unnecessary risks, taken by lake pilots in a local har-
15 bour other than the one you have cited with respect
16 to the accident between the YILDUN and the SILVIA?
17 Can you think of a specific instance of malpractice by
18 lake pilots?

19 A. No, no. I can recall that they are
20 very anxious to get off a vessel. As an instance, I
21 was going out one morning at five o'clock to bring a
22 ship in which had a lake pilot aboard. I was on the
23 pilot boat; he called up and said "Can you take me
24 off and put me off at the Burlington pier because there
25 is another coming down the canal. I want to get off."
26 I thought "I could really do him dirt." I said, "You
27 are the only B licence on board the ship and if I get
28 on you get off." He said "I never thought of it." I
29 went on board and brought him in.

30 Some of them are in a hurry. They get



1 \$50 from A to B and if they double back they get another
2 \$50. We have shipping lines who insist on taking a
3 harbour pilot whether there is a B man aboard or not.

4 THE CHAIRMAN: You are talking of Canadian
5 pilots there because they are paid by salary?

6 THE WITNESS: Lake pilots. They are paid
7 by the trip.

8 THE CHAIRMAN: Lake pilots, yes.

9 MR. LANGS:

10 Q. Paragraph 35 of the brief refers to
11 the fact that the master of a vessel may incur a risk
12 by refusing the use of the local pilot although he has
13 been accustomed always to use local pilots in all other
14 world ports." Can you give an instance of that?

15 A. If you refer back to page 6.

16 Q. Have you talked with the masters of
17 these foreign vessels with respect to whether or not
18 they are used to local pilots?

19 A. Oh, quite definitely they are.

20 MR. LANGS: That is all, thank you.

21 CROSS-EXAMINATION BY MR. LALONDE:

22 Q. Mr. Day, I would like to refer to
23 paragraph 22, the list of mishaps. The first incident
24 you refer to is the PATIGNIES. Rubbed bottom but got
25 through all right. Was there any actual damage?

26 A. None that I know of, no.

27 Q. As far as the next one, the DAGAN, there
28 again the tug was called to get the ship out but to your
29 knowledge was there any damage?
30



1 A. I have no report on damage, no.

2 Q. I notice that none of the three mishaps
3 with lake pilots on board reported here imply damages
4 to the docks themselves or harbour installations while
5 other mishaps are connected with Pier 10 or Pier 11 or
6 damage to a buoy; that is to harbour installations them-
7 selves?

8 A. Yes.

9 Q. Does this mean in effect that the only
10 records you have are damages to your own harbour instal-
11 lations and as far as the other incidents or mishaps
12 which may occur in the harbour you have no direct know-
13 ledge of them?

14 A. By other instances or mishaps are you
15 referring to pilots?

16 Q. Let us say you have a lake ship or an
17 ocean-going ship without a pilot aboard going out and
18 using the wrong side of the channel and scraping the
19 bottom and maybe having some damage. Would you
20 necessarily hear about it?

21 A. Not necessarily, no.

22 Q. My question was is not the reason why
23 damages are reported here because they are damages to
24 the docks and harbour installations and these are the
25 only ones you have direct knowledge of?

26 A. Those are the only ones.

27 Q. I am referring to all others.

28 A. Yes. I see what you mean, yes.

29 THE CHAIRMAN: With regard to port instal-
30 lations the list would be complete but with regard to



1 other possible mishaps it is only what came to your
2 attention?

3 THE WITNESS: That is right, my lord.

4 THE CHAIRMAN: There might be many more?

5 THE WITNESS: There may be but I think we
6 would have heard of them within the harbour.

7 MR. LALONDE:

8 Q. These masters referred you to the fact
9 that all over the world they have local pilots available
10 for them. Did they also mention to you that all over
11 the world in those harbours the ships were required
12 generally to take local pilots, that is pilotage was
13 compulsory?

14 A. Yes, it is compulsory -- payment or
15 compulsory pilotage. They discussed that.

16 Q. And the fact that all incidents to the
17 harbour installations themselves seem to have occurred
18 when there was no pilot on board in the Hamilton Harbour,
19 from your evidence here, would that not indicate in
20 your opinion that Hamilton Harbour should follow the
21 same policy that is applied in other harbours generally
22 in the world?

23 A. I would think so, yes.

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30



Day, cr-ex
(Lalonde)

1 English

2 Q. The way I understood your evidence, you
3 have had no expression of dissatisfaction by
4 agents or ship owners with Canadian lake pilots;
5 is that correct?

6 A. That is correct.

7 Q. You refer to a certain number of instances
8 of delays which could happen by ships finishing--

9 A. Early.

10 Q. Early?

11 A. That is right.

12 Q. Did you have such instances in the past?

13 A. Have we had?

14 Q. Yes, in effect?

15 A. Yes, but not too many.

16 Q. How many would you have had approximately,
17 last year?

18 A. Three, two.

19 Q. Two or three?

20 A. Yes.

21 Q. Would you know approximately the duration
22 of the delays in such instances, these two or
23 three instances?

24 A. One to two hours.

25 Q. Assuming that these deep sea ships would
26 still be required to carry a pilot across Lake
27 Ontario, if they do not have a B certificate on
28 board, which is the present law?---

29 A. Yes.

30 Q. These two or three ships would have had



English

1 to wait, is it not true, anyway for the lake
2 pilots to take them further up from the Fairway
3 buoy?

4 A. Unless a waiver came through, which does
5 come through at times.

6 Q. A waiver, I understand, is given when
7 there are no pilots available?

8 A. That is right.

9 Q. Not because the ship has finished loading
10 early?

11 A. No. That is right.

12 Q. So that in effect one could say unless
13 there would be a waiver, these ships would
14 suffer a delay anyway?

15 A. You mean if it finishes discharging or
16 loading early?

17 Q. And they were requiring a pilot across
18 the lake?

19 A. Yes, under the present law, yes.

20 Q. I notice that your service is open from
21 7:00 A.M. to midnight.

22 A. That is correct.

23 Q. Then do I understand that there are no
24 ship movements between midnight and 7:00 A.M. in
25 the harbour?

26 A. Yes. Let me qualify one thing. We don't
27 have harbour control. It is just a service of
28 the Harbour Master.

29 Q. I see.

30 A. I mean, you understand harbour control.



English

1 You call up and ask permission to move your
2 berth.

3 Q. Any ship can go in and out when they
4 wish to?

5 A. They must call the bridge, Burlington
6 bridge.

7 Q. Do you have ships moving or coming in
8 between midnight and 7:00 A.M.?

9 A. Yes, we have lakers. Very rarely salt
10 water vessels.

11 Q. What is the arrangement in such instances?
12 Do they have to call in during the day or before
13 you close your office? What is the ruling?

14 A. For what?

15 Q. For a ship. Let us say there was a ship
16 coming in at two o'clock in the morning.

17 A. Yes?

18 Q. For some reason. If she wants to come
19 in one of your docks, what should he do? What
20 should she do in order to be able to get in at
21 two o'clock in the morning?

22 A. Well, his agents will advise him what
23 his berth is. If he has no pilot on board,
24 presumably he knows where to go.

25 Q. Yes?

26 A. And he in turn will advise his agent
27 if he requires a pilot on his E. T. A. at the
28 buoy, and we in turn will keep in touch with him
29 by radio-telephone.

30 Q. And you arrange to have a pilot there at



English

1 the proper time?

2 A. Yes.

3 Q. With the tug as pilot boat?

4 A. If a tug is available.

5 Q. Do you have a pilot boat also?

6 A. Yes.

7 Q. I notice there is a charge mentioned
8 here, \$18.00, to take --

9 A. That's to put the pilot aboard and
10 \$18.00 to take him off.

11 Q. \$18.00 each way?

12 A. Yes.

13 Q. Then if that pilot boat runs the lines
14 for the ship, there is an extra charge?

15 A. Of \$15.00.

16 Q. So the charge for a pilot service from
17 the Fairway buoy in is what?

18 A. \$60.00 in and out. \$40.00 one way.

19 Q. It is \$40.00 one way?

20 A. Yes.

21 Q. Has this been increased recently? This
22 is the present rate?

23 A. Yes. Smaller vessels on there, isn't it?

24 Q. It is mentioned here for pilotage inward
25 and outward a vessel not over 260 feet in
26 length, \$50.00.

27 A. That is right.

28 Q. And over 260 feet, \$60.00?

29 A. That is right.

30 Q. In addition the ship must pay the pilot



1 boat service?

2 A. That is right.

3 Q. I would like you to refer to your Exhibit
4 1110. Do you have a copy before you?

5 A. Yes.

6 Q. In towing you put revenues. I understand
7 this is a charge made for towing the ship which
8 is so much per ship I presume in the harbour?

9 A. Yes.

10 Q. Now, expenses, what do you put in the
11 expense?

12 A. Well, I presume it is maintenance and
13 whoever happens to be sailing. It is his
14 salary. And the crew.

15 Q. You say you presume? You haven't
16 prepared these figures yourself?

17 A. No. It is done by the accountants.

18 Q. Are you yourself aware of the operation
19 of the tug boat service?

20 A. Yes.

21 Q. Do you have a permanent crew on board?

22 A. No.

23 Q. What kind of tug is it? How many tugs
24 do you have and what kind of tugs are those?
25 Would you elaborate on this?

26 A. We have one of 720 horsepower, and
27 another 760. Diesel tugs.

28 Q. Yes?

29 A. For one tug we use what we call a
30 smaller tug, smaller in tonnage and shorter in



English

1 length, and one of the pilots will sail her.

2 She is pilot house controlled.

3 Q. She is pilot house controlled?

4 A. No engineers. There is no engineer,
5 and we have a man on deck.

6 Q. One man on deck?

7 A. Yes.

8 Q. For both tugs it is the same procedure?

9 A. No. The other tug requires an engineer.

10 It is not pilot house controlled. It requires
11 three deckhands and a mate. It is a bigger
12 vessel.

13 Q. Are these boats used only for docking
14 service in the harbour itself?

15 A. No. The MACASSA, a larger vessel, is
16 used also as a passenger vessel.

17 Q. And the deckhand you have for the
18 smaller tug boat, is he a permanent employee?

19 A. He is seasonal, April until we close.

20 Q. But he is employed full-time within the
21 season?

22 A. Yes, that is right.

23 Q. He is not paid only for the number of
24 hours he works?

25 A. No, no.

26 Q. Is that his only function to your
27 knowledge?

28 A. Well, he will also operate the pilot boat
29 if necessary, or as a lineboat, which we use as
30 pilot boat too. It don't work out that we are



English

1 using a tug and pilot boat and piloting all
2 at the same time if you are following me. That
3 is why we can integrate it.

4 Q. As far as the MACASSA is concerned, I
5 understand that this is a part-time function
6 for that boat?

7 A. Yes. As a matter of fact she did very
8 little last year. We might call her in the
9 fall or spring in the bad weather.

10 Q. You would not have any idea how the
11 MACASSA operations would come into the expenses
12 here?

13 A. No. You are referring now to 1963?

14 Q. Yes, or 1962. The \$16,000.00 and
15 \$5,000.00 figures.

16 A. No, I wouldn't know how it figures in.

17 Q. Now, the pilotage revenues is clear;
18 tariffs, I presume?

19 A. Yes.

20 Q. Then you have expenses. Do you know
21 what these expenses are? Do they include
22 pilot boat service?

23 A. No.

24 Q. Revenues, do you know whether revenues
25 in pilotage include pilot boat service or are
26 they only for pilotage tariff itself?

27 A. I would say that is pilot boat and pilot
28 service.

29 Q. Yes. Exhibit 1111 refers to two figures
30 for 1963, \$11,817.00 for pilotage and \$8,998.00--



English

1 A. For pilot boat.

2 Q. On the expenses side, you would not
3 know what goes into these expenses as such?

4 MR. LANGS: If I may interrupt my friend,
5 I think we can have a written list on this.

6 Q. Okay. For harbour control, would you
7 be in a position to assess what that is?

8 A. That would be operators' salaries and
9 the rental for the teletype machine.

10 Q. In paragraph 22 of your brief it seems
11 to indicate there was never any incident
12 involving a Hamilton harbour pilot since 1959?

13 A. One is shown November 30, FEDERAL PIONEER,
14 on page 6.

15 Q. Yes. Was there a Hamilton harbour pilot
16 on board?

17 A. Yes, there was.

18 MR. LALONDE: On my copy, My Lord, it
19 is indicated as having no pilot on board.

20 MR. LANGS: There was a change made
21 to eliminate the no pilot. On the information
22 given to me instead of being no pilot, there
23 was a harbour pilot.

24 MR. LALONDE: I see.

25 THE CHAIRMAN: This is FEDERAL PIONEER,
26 November 30, 1960?

27 Q. The X should be transferred from the
28 "No Pilot" column to the "Harbour Pilot" column.
29 To your knowledge has there been any other
30 instance ever since?



English

1 A. No, not that I recall.

2 Q. Was there not an accident involving
3 the ship ALGERNIB on June 1st, 1962, or in
4 that area?

5 A. What happened?

6 Q. Did not that ship hit a bridge or
7 something?

8 A. Her spars I think -- the Bascule Bridge
9 touched them on the way in.

10 Q. What is that?

11 A. Her spars I believe touched the bascule
12 bridge on the way out, but we didn't hear
13 anything in regards to damage.

14 Q. Was there a harbour pilot on board?

15 A. Yes, there was.

16 Q. Do you know whether in fact the spar
17 hit the bridge?

18 A. Do I know?

19 Q. Yes.

20 A. Yes, I do know because I was the pilot.

21 Q. That is what I thought also.

22 A. That is what you are trying to find out,
23 was it?

24 Q. But you have not had a report of damages?

25 A. No, nothing.

26 Q. But in fact the bridge was hit?

27 A. By the spar. The top mast.

28 Q. Is that the bridge at the entrance of
29 the harbour in the Wellington Channel?

30 A. No, at Burlington Channel.



English

1

2

Q. Yes.

3

A. That is when you had one way through there, just one bridge.

4

5

Q. Does that bridge come under the Hamilton Harbour Commissioners?

6

7

A. No. Department of Public Works.

8

Q. If there had been any claim by somebody against somebody in that connection --

9

10

A. I went back to the bridge operator and we surveyed the thing and there was no damage.

11

12

13

Q. I see. If there was any damage it was to the spar of the ship?

14

15

A. Yes.

16

Q. Do you have any knowledge of other instances where a ship with a Hamilton harbour pilot on board could have suffered damage without having done any damage to harbour installations?

20

21

A. Yes, we had one other.

22

Q. Yes. Would you briefly say what year that was? Do you remember which ship?

23

24

A. The CRYSTAL GEM and I think it was -- I'm not sure whether it was 1960 or 1961 -- being pulled out of the Dominion Foundry, grounded and twisted her rudder.

27

28

Q. Do you have any other instances where

29

30

a ship with a Hamilton harbour pilot on board would have grounded without causing any damage?



English

A. The FEDERAL PIONEER, he went aground.

Q. I am not asking you these questions to try and show you are not a competent captain.

A. No, no, I realize that. I am not mad at you.

MR. LALONDE: Thank you.

COMMISSIONER SMITH: I would like to ask the witness some questions. Mr. Day, this question is prompted by a paragraph in the brief which states that there is dissatisfaction in the pilotage in the harbour of Hamilton because of the six lake pilots making the three Hamilton pilots subservient, I think is the language that is used.

I would like to ask what your opinion is with regard to the St. Lawrence Seaway Authority taking over all pilotage in the Great Lakes Basin, which would include the Canals, Locks, the designated, the undesignated waters, the Lakes and all other Canadian waters. Do you think that would improve or otherwise the pilotage operations in Hamilton harbour?

THE WITNESS: Well, I feel that our pilots are competent and can do the job. Now, the way you have outlined it to me, I think we would be where we are now; you have outside people coming into the port where they are not familiar with it day to day.

COMMISSIONER SMITH: Yes, but you would



1 be relieved of the complaint that is made now,
2 as I understand it, that your own pilots are
3 being made subservient to the pilots, the six
4 pilots that are now coming into your harbour
5 to do pilotage. I mean it would remove that
6 aspect of the subservient element I would think,
7 and if it did, what would you think about it?

8 THE WITNESS: Well, I would like to see
9 the subservient attitude removed, of course,
10 but you state that all waters of the Great
11 Lakes Basin --

12 COMMISSIONER SMITH: All Canadian waters.

13 THE WITNESS: Become designated waters;
14 is that what you mean?

15 COMMISSIONER SMITH: All waters.

16 THE WITNESS: As designated waters?

17 COMMISSIONER SMITH: No, I think you
18 misunderstood me. All waters in the Great Lakes
19 Basin.

20 THE WITNESS: Yes.

21 COMMISSIONER SMITH: Taken under the
22 authority and the jurisdiction of the St.
23 Lawrence Seaway Authority, which would include
24 the harbour of Hamilton and other harbours and
25 the Lakes and Locks, Canals, Rivers.

26 THE WITNESS: They would designate
27 pilotage?

28 COMMISSIONER SMITH: They would take
29 over the authority.

30 THE WITNESS: Of pilotage?



English

COMMISSIONER SMITH: Oh, yes.

THE WITNESS: And then you would assume they would introduce compulsory pilotage?

COMMISSIONER SMITH: They would operate it, and it might be and it might not be, but the operation would be regulated by them under authority granted to them by the government.

THE WITNESS: Well, from our point of view, which we have explained, that we use these people and tug, lineboat and pilot boat and so on, if that happened, I don't know what would become of the tow boat service and so on in the harbour.

COMMISSIONER SMITH: You think it might not fit into the --

THE WITNESS: Not with our operation.

COMMISSIONER SMITH: The operation that exists now?

THE WITNESS: That is right.

-

-

-



1 THE CHAIRMAN: Mr. Day, am I right in saying
2 that a harbour pilot would be an experienced man with
3 two qualifications, a good ship handler with local
4 knowledge of his harbour?

5 THE WITNESS: Yes, my Lord.

6 THE CHAIRMAN: Now as to how the pilotage
7 organization for harbour pilots should be localized to a
8 port, would it not depend on the second quality, as to
9 what extent the local knowledge would be necessary?
10 In other words, if there are adverse conditions, if there were
11 comparable adverse conditions among a certain number
12 of ports and conditions that are not changeable or
13 variable but are all the time the same, the number of
14 harbours could be handled efficiently by good ship
15 handlers?

16 THE WITNESS: The number of harbours?

17 THE CHAIRMAN: Harbours, you know, with
18 similar conditions.

19 THE WITNESS: Yes.

20 THE CHAIRMAN: Could be handled by good ship
21 handlers under the same rule?

22 THE WITNESS: Yes.

23 THE CHAIRMAN: While on the other hand if
24 you have very variable local conditions, changeable
25 and adverse, then you have to have localized pilotage --
26 localized organization?

27 THE WITNESS: Yes.

28 THE CHAIRMAN: For instance, I have in mind
29 a harbour that you may know, the Harbour of Saint John,
30 New Brunswick.



1 THE WITNESS: Yes.

2 THE CHAIRMAN: Where there you have a great
3 range of tides and cross-currents and currents from the
4 river. There a harbour pilot from Montreal may not be
5 able to do the job at all.

6 THE WITNESS: That is true.

7 THE CHAIRMAN: So I was wondering whether
8 the local knowledge to the extent it is necessary would
9 not be the criterion to decide whether local organiza-
10 tion is necessary as far as security is concerned.

11 THE WITNESS: Whether it is necessary as
12 far as security is concerned?

13 THE CHAIRMAN: Yes.

14 MR. BRISSET: Knowledge of local conditions?

15 THE CHAIRMAN: Knowledge of local conditions.

16 THE WITNESS: I think that knowledge of
17 local conditions ---

18 THE CHAIRMAN: What I am trying to find out
19 is, for instance here in the Great Lakes I think we work
20 on the assumption now that the local conditions are
21 almost the same in all the Great Lakes ports.

22 THE WITNESS: Yes.

23 THE CHAIRMAN: So that is why any good ship
24 handler who knows the local conditions in one port and
25 so on with very little study of the charts and notices
26 to mariners does not need local experience?

27 THE WITNESS: I agree with you on that. If
28 he has had the experience of running in and out of various
29 ports and so on he would be just like a lake master. A
30 lake master would not require a ---



1 THE CHAIRMAN: That is from the security
2 angle. Now you may have, of course, other reasons why
3 local organizations should be set up. That would be for
4 instance better to control, would it not?

5 THE WITNESS: Better for control and maybe
6 the vessels -- getting them in and out.

7 THE CHAIRMAN: Better expedition of traffic?

8 THE WITNESS: Yes.

9 THE CHAIRMAN: And unity of command or unity
10 of authority in the harbour?

11 THE WITNESS: Yes.

12 THE CHAIRMAN: Better organization; so that
13 those would be other factors besides security?

14 THE WITNESS: That is right, sir.

15 THE CHAIRMAN: Counsel are going to say that
16 I put myself in the witness box.

17 Any further questions of Mr. Day?

18
19 CROSS-EXAMINATION BY MR. BRISSET:

20 Q. Mr. Day, would you be satisfied if in
21 the harbour of Hamilton one week they sent you three
22 pilots that had worked the week before, say, in the port
23 of Chicago, and again the following week they sent three
24 other pilots who had worked the week before in the Port
25 of Fort William, and so on, rotating them all across the
26 lakes like this?

27 A. No.

28 THE CHAIRMAN: Why?

29 MR. BRISSET:

30 Q. Why would you not like that system?



1 A. Well, he has been away for a week. You
2 see, when the harbour pilot goes out with a vessel he
3 knows exactly what is in the harbour, where the vessel
4 is going, what the conditions are and so on. His mind
5 is made up when he is bringing her in what he is going
6 to do.

7 THE CHAIRMAN: Has the up-to-date knowledge
8 of the traffic conditions in the harbour any importance
9 with regard to pilotage in that harbour?

10 THE WITNESS: The up-to-date?

11 THE CHAIRMAN: The knowledge of the actual
12 traffic in that harbour; has it anything to do with the
13 pilotage in the harbour?

14 THE WITNESS: Yes.

15 THE CHAIRMAN: If you know how many ships
16 there are in, what the moves are and so on?

17 MR. BRISSET:

18 Q. What dredges are working in the harbour
19 and where they are making the installations?

20 A. Yes. One came in and he did not want
21 a harbour pilot and dropped the anchor. Then he wanted
22 a harbour pilot because he did not know the conditions
23 when he came inside, when he found out where his berth
24 was. That is why I am against lake pilots. They
25 will serve a certain amount of time. They will get to
26 know a harbour in and out and then they are moved to
27 District 1 when a vacancy occurs, and then we have a
28 new man coming in. That occurred last year.

29 THE CHAIRMAN: If this situation was cor-
30 rected by leaving the same men all the time as lake



1 pilots, would that cure the situation?

2 THE WITNESS: It could with competent men.

3 THE CHAIRMAN: As far as safety is concerned?

4 THE WITNESS: With competent men.

5 MR. BRISSET:

6 Q. Mr. Day, will you put before you Exhibit
7 1111, the yearly comparative statement of pilotage?

8 A. Yes.

9 Q. You have a column of figures indicating
10 the total pilot boat invoiced. Does that include the
11 services of the pilot boat when the pilot boat is used
12 to handle lines?

13 A. Yes; those earnings are in there, yes.

14 Q. Are there occasions when the pilot
15 boat's services are enjoyed when there is a lake pilot
16 on board to put on the lake pilot or to take him off?

17 A. Rarely. The only cases where it
18 happens is when the vessel comes in and there is no
19 berth and she goes to anchor. Probably there is a day's
20 wait or something. He will bring the lake pilot in
21 so that he can go back.

22 Q. In that figure of 8998 for the year
23 1963 there may be charges included in there to take
24 off the lake pilots because their ship has gone to
25 anchor?

26 A. Yes, there could be, yes.

27 Q. You mentioned in your remarks for the
28 year 1963 the number of moveages made by lake pilots for
29 1963 amounts to 201. I would like to have a clear
30 definition of the word "moveages". Does that refer to



1 trips from the Fairway Buoy to a berth and back from a
2 berth to the Fairway Buoy, or also moveages between
3 various berths in the harbour?

4 A. That is every move that was made with
5 a lake pilot. It may be an inner harbour move or it
6 may be out to the Buoy, or it may be bringing them in.

7 Q. I see. You have given a total for the
8 moveages of 201?

9 A. Yes.

10 Q. You are aware, of course, that the
11 minimum charge by a lake pilot for such moveages as it
12 was in 1962 was \$75 and \$50, plus 25?

13 A. Yes.

14 Q. That is correct. So if there were
15 201 moveages I have made the calculation that the cost
16 of the lake pilots for that year was \$15,015?

17 A. Yes.

18 Q. Correct?

19 A. You are multiplying that figure?

20 Q. By 75. I have done this little
21 exercise to compare the cost to the ship for lake pilots
22 for 201 moveages, which is \$15,015, while your pilots
23 did 376 moveages or trips for the sum of \$11,817 ---

24 MR. LALONDE: \$20,000 -- sorry. It is
25 \$20,890 including pilot boat.

26 MR. BRISSET:

27 Q. Well, including pilot boat, if you wish,
28 but in the figure for pilot boat you include, of course,
29 services rendered also to lake pilots and the handling
30 of lines. Of course, when there is a lake pilot on



1 board the ship still has to have her lines handled?

2 A. No, no. How shall I say it now? Not
3 very often a line boat is used. The only time a line
4 boat is used is if the vessel is down in the slip and
5 she cannot get up. The slips are only 200 feet wide,
6 so therefore if she is ahead of another vessel the line
7 must be taken across the wharf and she warps her way
8 on from there. There is not too much of that nature.

9 As far as taking the lake pilots off,
10 I do not think that happened more than three times, a
11 ship going to anchor.

12 Q. I see. I want to know a little more
13 exactly under what conditions the lines are handled by
14 the harbour employees for the account of the ship.

15 A. We do not handle lines in the sense of
16 linesmen. That is what you are referring to -- at the
17 dock?

18 Q. Yes.

19 A. All we do is supply a line boat when
20 necessary. Linesmen are supplied by the stevedore
21 company and ordered by the agent.

22 Q. In other words, in the charge of 8998
23 there are included in it charges for the line boat?

24 A. Yes, which is \$15 to run them across
25 Wellington Street slip.

26 Q. Is the line boat used only when there
27 is a harbour pilot on board or also when there is a trans-
28 lake pilot on board?

29 A. The line boat is only used when the
30 ship is bottled in and she cannot get out. We never



1 use a line boat in making a dock if it is all clear.

2 Q. When a line boat is used are there cases
3 where there is a pilot on board?

4 A. Oh, yes.

5 Q. Whether it is a lake pilot or a harbour
6 pilot?

7 A. If it is needed they use it.

8 Q. So therefore the charge for the line
9 boat is not a charge that has anything to do with
10 pilotage?

11 A. That is correct.

12 Q. Even though it is included in the figure
13 of \$8,998?

14 A. Yes.

15 MR. LALONDE: On the other hand, my friend's
16 figure of \$75, if a lake pilot takes a ship across the
17 lake, obviously there is a charge of \$50 for the 24-hour
18 period. We have had that in evidence. And there is
19 \$25 for docking the ship or taking it into the harbour,
20 which would in effect mean the \$75 may be done all in the
21 same day and would include pilotage in effect from Cape
22 Vincent to Hamilton Port.

23 MR. BRISSET: It is a matter of argument.
24 We do not call that pilotage, my Lord.

25 MR. LALONDE: I know it is argument, but my
26 friend brought it out, so I do not want to leave it as
27 such.

28 THE CHAIRMAN: You are going to have a few
29 questions, Mr. Jacques?

30 MR. JACQUES: Yes, my lord.



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Day

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THE CHAIRMAN: I think we will adjourn until

2.30.

---Luncheon adjournment.



1 English

2 ---UPON RESUMING AT 2:30 P.M.

3

4 CROSS-EXAMINATION BY MR. JACQUES:

5 Q. Mr. Day, did you participate in the
6 recruiting of pilots in 1959, of your own
7 pilots I mean?

8 A. In 1959 there was a lake captain,
9 Captain Scarrow. He was retired from the
10 Canadian Steamship Lines and he operated until
11 September and I did the piloting from September
12 of 1959 until along in 1961. Then we hired
13 another pilot and in 1962 we added another
14 one, which makes a total of three now.

15 Q. You are included?

16 A. I do the odd one, nothing like I used
17 to.

18 Q. Do you know of the qualifications of
19 the other two pilots?

20 A. You mean their licences?

21 Q. Yes.

22 A. One holds a Master's inland unlimited
23 and one holds a Master's inland 350 tons.

24 Q. Did they have to serve any period of
25 apprenticeship?

26 A. The one pilot, I would say, served
27 probably two months riding with myself in and
28 out. The other pilot had had experience and
29 good recommendations from Fort William and Port
30 Arthur.



1 English

2 Q. And did they pass some sort of exam-
3 ination before you or any of the Commissioners
4 before being hired?

5 A. No, no; just in their ability to handle
6 the ship.

7 Q. And in the case where one served an
8 apprenticeship it was your recommendation that
9 he was able to handle the ship?

10 A. That is correct.

11 Q. That clinched the job?

12 A. That is correct.

13 Q. In the other case it was merely on
14 the recommendations of the Port Arthur-Fort
15 William authorities. Is that it?

16 A. Yes. Yes, he had been successful and
17 I believe D. O. T. took over out there and he
18 was out. He came down and we needed an addition-
19 al pilot so we hired him.

20 Q. Would you tell the Commission what are
21 the working conditions, working hours, vacation,
22 and day off and what not?

23 A. They have one day off a week. They
24 start when the Seaway opens and finishes when
25 it closes and they are on more or less standby
26 24 hours a day at home, either for tow boat or
27 pilotage.

28 Q. To all practical intents and purposes
29 there are two men doing the job now?

30 A. Yes.



English

Q. How many jobs, piloting jobs, would they do in one day during the busiest time of the season?

A. That is difficult to answer. You will go along two or three days and there won't be any jobs and then you might get two ships, three ships in a day.

Q. Do you have a record of all the jobs performed by pilots?

A. Yes, we have a pilotage card. That is made out and signed by the Master.

Q. You have that for last year?

A. Yes.

Q. What information does this card show?

A. The last port of call if inbound or outbound, the name of the vessel, gross registered tonnage, Master's signature, length and beam.

Q. Does it include time boarded?

A. Time boarded, yes.

Q. Time off?

A. Yes.

Q. Detention time?

A. If any, yes.

Q. And at anchor?

A. Yes.

Q. It does?

A. Yes.

Q. Since you have been a pilot yourself you



- 1 English
- 2 might tell us how long it takes for one job,
- 3 one movage inward or outward?
- 4 A. One hour.
- 5 Q. And where do you board the vessel?
- 6 A. Inbound at the Fairway buoy which is
- 7 one mile off Burlington Channel, Lake Ontario.
- 8 Q. When you disembark where do you dis-
- 9 embark?
- 10 A. The same place.
- 11 Q. In all cases you go through Burlington
- 12 Channel?
- 13 A. Not all cases. In some cases the
- 14 Master will say to disembark on the Bay side,
- 15 rarely but it has been done.
- 16 Q. You have mentioned the staffing of your
- 17 office. Would you describe the staff more
- 18 fully? How many men have you got?
- 19 A. We have two and one relief, that is for
- 20 RT.
- 21 Q. You have two operators and one relief?
- 22 A. Yes.
- 23 Q. And apart from that do you have any
- 24 other staff?
- 25 A. No, not in the office now. There is
- 26 myself.
- 27 Q. The accounts?
- 28 A. The accounts are kept at the main office.
- 29 Q. At the main office?
- 30 A. Yes.



1 English

2 Q. And how is the dispatching of a pilot
3 done?

4 A. Well, if the vessel is inbound and
5 requires a harbour pilot the agent will notify
6 us or if the vessel is coming from Toronto
7 they will let us know on the teletype and
8 usually say what time. I would say that in
9 fact in 95% of the cases the agent is talking
10 to the Master by land phone and radio-telephone
11 and inquires if he wants a harbour pilot and
12 asks the ETA and we set it up from there.

13 Q. How many hours notice do you require?

14 A. We require four hours notice.

15 Q. Is that respected or adhered to in
16 practice?

17 A. Not all the time, no.

18 Q. Has it happened --

19 A. Rather than keep a vessel waiting we
20 have hustled around to get a pilot out. It
21 happens that we have vessels that will come to
22 the buoy and bad weather sets in and they want
23 a harbour pilot right away. The Master does
24 not wish to take the vessel in on his own. It
25 may be blowing quite hard. It is all according
26 to the conditions. He will come on the radio-
27 telephone and want a harbour pilot. We try
28 and not hold to the four hours. There are
29 probably gangs waiting which costs the ship
30 money.



English

Q. Would your pilotage card show whether there was a lake pilot on board the vessel when she arrived?

A. No.

Q. Nor a District pilot?

A. No. The Harbour Master's log shows when a lake pilot brings one in and takes one out.

Q. Even in cases where the harbour pilot does the job in fact?

A. What we could do is take the Harbour Master's log and the pilotage cards and compare. There is no record kept of both together.

Q. In fact would you tell me, say for last year, the number of ocean ships moving with pilots, the number of ocean ships moving without pilots, the number of lake ships moving with pilots and the number of either ocean or lake ships who, while they had either a lake pilot or registered pilot, still made use of your harbour pilot? Is that possible?

A. I couldn't tell you offhand. I could look up the records. I could tell you that.

Q. Would you, please?

A. Yes.

MR. LANGS: How many years?

MR. JACQUES: 1963.

THE WITNESS: That would be all I have.

MR. JACQUES: Q. Could we have the work



1 English

2 load of your pilots, the number of trips they
3 had in a given period, either of the day or
4 week?

5 A. I would have to break that down.

6 Q. Would you make a note of that?

7 A. Yes.

8 Q. At any time since 1959 have you requested
9 registration or licensing from the Department
10 of Transport for yourself or your other
11 pilots?

12 A. No, not to my knowledge.

13 Q. When you were a pilot and still today,
14 do you use radio-telephone to communicate
15 your orders to the tug?

16 A. Yes.

17 Q. The tug has a radio-telephone?

18 A. Yes.

19 Q. Is there a radio-telephone on the pilot
20 boat?

21 A. Yes.

22 Q. And there is one ashore also?

23 A. In the Harbour Master's office.

24 Q. You have a set of three radio-telephones?

25 A. Yes.

26 Q. Would you describe the pilot boat?

27 A. Describe it?

28 Q. How old is she? Her length?

29 A. The vessel is 36 feet in length, powered
30 with a GM 671, about 165 horse Diesel. She was



1 English

2 built around 1942 or 1943. She is steel
3 construction.

4 Q. She is decked, she has a house?

5 A. Yes. As a matter of fact she comes
6 under inspection in regards to a passenger
7 vessel.

8 Q. Licensed to carry how many?

9 A. Two passengers, two crewmen.

10 Q. Would you know her value today equipped?

11 A. I don't know that.

12 Q. We can obtain that information from your
13 Chairman, I presume?

14 A. Mr. Morgan might know it.

15 Q. Does it happen that a lake ship uses
16 your pilot?

17 A. No. We had only one instance and that
18 would be in 1961 or 1962. I don't recall the
19 year exactly. The reason for that was she
20 was registered in the Bahamas and there was
21 a District 2 pilot aboard at the time and they
22 used the harbour pilot to come in.

23 Q. Now you are a seaman, you have been a
24 pilot in Hamilton. Would you outline for us
25 the dangers encountered in navigating in
26 Hamilton harbour?

27 A. Well --

28 Q. Let us take a ship. You have boarded
29 the ship a mile off the buoy and you are making
30 for Burlington Channel. Are there any special



English

precautions you must take to make that Channel?

A. No. Burlington Channel is now 300 feet wide. Nothing like it used to be. The draw used to be 150 feet.

Q. What about the current at the ends?

A. There is some current.

Q. Is it located on the chart? Is it a strong current?

A. At times. The harbour only has one inlet and one outlet.

Q. And what is the direction of the current at the entrance?

A. Well --

Q. You might draw a red arrow on Exhibit #977.

A. The wind has been east or northeast, if the wind is northeast or east and blowing considerably the current will be in, coming in, sometimes piles up and makes a cross-current.

Q. Would you indicate that with a red line?

A. The cross-current here and one here depending on the direction of the wind.

Q. And how strong is that current?

A. Well, of course, there again it could go up to 4 knots, 5 knots.

Q. And coming through the Channel?

A. About the same.

Q. And when you are inside what particular dangers would a seaman encounter?



English

A. Well, he would have no current in here.

Q. By "in here" you mean inside the harbour?

A. Yes. Now we find that here at pier 10 there is a cross-current going this way.

Q. And indicated with a red arrow.

A. And sometimes it is going that way.

Q. Is that predictable, the direction in which the current will flow?

A. It is not predictable. We notice it before we bring the ship in. A northeast or east wind the harbour will fill up with water. It has to get out after when the wind goes down which creates the other current.

Q. And what about the lake Master. There is no pilot on board and presumably he has not been there for a week or so, how would he know about these currents, which direction they flow?

A. If he has been in there before he understands the situation of what happens, what to expect. It is a matter of experience.

Q. Apart from these two places where there is apparently a current, are there any other unusual dangers, or dangers, let us say, in navigating in Hamilton?

A. No.

MR. JACQUES: Thank you.

THE CHAIRMAN: Any further questions?

MR. LALONDE: Do you have any pipelines



1 English

2 or electrical wires or things of that sort
3 going across the basin under water?

4 THE WITNESS: There is two oil pipelines.

5 MR. LALONDE: Are they indicated on
6 the chart?

7 THE WITNESS: Yes, they are here.

8 THE CHAIRMAN: That is the west end?

9 THE WITNESS: Yes.

10 MR. LALONDE: You could not anchor in
11 that area?

12 THE WITNESS: No, it is prohibited. It
13 is marked on the chart.

14
15 RE-EXAMINATION BY MR. LANGS:

16 Q. If I might re-examine on a few points.
17 You did tell about a vessel that came in, I
18 think with a lake pilot or under the Master,
19 and they didn't want a harbour pilot and then
20 they anchored someplace and called for a harbour
21 pilot. Do you recall that evidence?

22 A. Yes. This vessel came up from St. Vincent
23 and had a lake pilot aboard. When we heard her
24 call we asked if she wanted a harbour pilot and
25 the answer was "No". She came inside the harbour
26 and when she came in to the channel, he was to
27 go down in here --

28 Q. Down towards what direction?

29 A. The east end. He got in here and across
30 here was dredging and pipelines and dredges and



1 English

2 so on. He came around and dropped anchor and
3 wanted a harbour pilot.

4 Q. Then in answer to my friend there are
5 other hazards besides the one mentioned by you.
6 For instance, this one you just mentioned.

7 A. Yes. He anchored somewhere in here
8 and there was a pipeline across here, pumping
9 fill in over to here, and a dredge working in
10 here.

11 THE CHAIRMAN: Would you describe it
12 for the record?

13 THE WITNESS: At the east end of the
14 harbour there was a dredge working with a
15 pipeline that ran on top of the water part way
16 and then went under the water over to Ottawa
17 Street slip. The vessel came in and anchored
18 to the north of the pipeline and called for
19 a harbour pilot.

20 MR. LANGS: Q. Would you draw a little
21 anchor where the vessel anchored, please. What
22 about the channels which are down in the south-
23 east corner? Can you say anything as to that?

24 A. These are all dredged to Seaway depth,
25 and it is difficult to get into this one at
26 times.

27 Q. Into what one?

28 A. That will be the Strathern Avenue slip.
29 Sometimes there is a vessel first here in the
30 slip.



English

Q. What slip is that?

A. Strathern Avenue.

Q. Yes?

A. And if we know that then we automatically ask for a towboat to help us around in there to get by that fellow, which we know where he is going before we go out to him. We know he is going to Strathern Avenue slip. The agent tells us. We know what is in the slip, and we know what difficulty it is going to be, so we prepare for it, whether it is lineboat or towboat.

Q. Would a lake pilot coming in know this?

A. Not unless he asked the operator in the Harbour Master's office what is in the slip and so on.

COMMISSIONER SMITH: In that connection is there anything in the nature of a notice to shipping, Notice to Mariners, or instructions sent out as to what possible hazards there might be in the harbour like dredging plants and pipe leads?

THE WITNESS: Notices were sent out.

COMMISSIONER SMITH: They are all sent out in advance, and they know before they go in there what to expect?

THE WITNESS: They should if they get their notices, yes.

THE CHAIRMAN: Have they any way without



1 English

2 calling of finding out what is the situation
3 of traffic inside the harbour, where the ships
4 are already docked, and so on?

5 THE WITNESS: There is no way of knowing
6 without calling.

7 THE CHAIRMAN: Is that normal practice
8 for lake pilots to call beforehand to ascertain
9 that?

10 THE WITNESS: They generally ask what
11 is in the slip or what is there. However, if
12 the lake pilot, when he gets to the buoy, he
13 calls up and he finds out there is a vessel
14 in here, and it is necessary for him to use
15 a tug, he is going to have to wait for the tug
16 crew, but the harbour pilot, he knows what is
17 in the slip so he takes the whole thing out
18 with him.

19 COMMISSIONER RENWICK: How many ships
20 can you berth at one time? How many open
21 berths?

22 THE WITNESS: In Hamilton harbour?

23 COMMISSIONER RENWICK: Yes, approximately.

24 MR. LANGS: The General Manager can
25 answer that. Sixty-five.

26 THE WITNESS: It would be around that.

27 MR. LANGS: Q. Mr. Day, you were asked
28 some questions about delays. Just sit down if
29 you will. My question was there may have been
30 confusion as to whether or not these delays



English

were caused by lake pilots or the harbour pilots. Has there ever been any delay caused by a harbour pilot?

A. No, not to my knowledge.

Q. You were also asked about times. You said you have a four-hour limit within which time you would provide your pilot?

A. Yes.

Q. In fact what is the time usually taken by you after you have been informed that a harbour pilot is wanted?

A. You mean how long?

Q. Yes.

A. Well, do you mean how long it will take to get a pilot to the vessel?

Q. That is right.

A. About half an hour. If he is in port, if he is at a dock, but if he is outside, we have done it in an hour.

Q. So that you would say within a half hour to an hour is the usual time taken by you to give pilotage service after notification that a pilot is needed?

A. Yes.

Q. How long does it take to have a lake pilot service the vessels?

A. I think that their notification is six hours. Six hours notice.

Q. Can you say again from your own knowledge



English

how soon after they have received notification have they arrived and serviced the vessel requiring their services?

A. Well, in some cases they came over in two hours. As I said before, I don't know of any of them holding a vessel up any time for being late, but they have come over from Toronto in two hours from the time they got notice, and from Port Weller also.

Q. And then that brings us into the matter of the waiver. You are going to supply the Commission a form of waiver, but can you say just generally how many waivers were received by you in, say, 1962 or 1963?

A. Well, in 1962 there seemed to be a lot. A lot of them around. I would say around 20. In 1963, three or four.

MR. LALONDE: There has been reference to two kinds of waivers. You are referring to waiver of pilot, not to waiver of responsibility?

MR. LANGS: I am speaking only of waiver of pilots.

Q. Now, my friend asked you some questions about costs of a harbour pilot and a lake pilot, and the figures were quite confusing. Can you simply tell the Commission what is the charge made for a local harbour pilot?

A. Harbour pilot?



1 English

2 Q. Yes.

3 A. If the vessel is over 250 feet, and she
4 is going in one way, --

5 MR. LALONDE: 260.

6 THE WITNESS: 260, I am sorry.

7 MR. LALONDE: You might refer to
8 Appendix B of your own brief where you have
9 the by-laws produced.

10 THE WITNESS: Thank you.

11 MR. LANGS: Q. Yes?

12 A. One way is \$40.00, plus the pilot boat
13 which is \$18.00. \$58.00.

14 Q. What is the charge made by the lake
15 pilots?

16 A. It would be \$75.00.

17 MR. LALONDE: The same explanation as
18 this morning, My Lord.

19 MR. LANGS: My Lord, I disagree with
20 that. If my friend's lake pilots charge less,
21 that is a matter of evidence.

22 MR. LALONDE: I invite my friend to look
23 at the by-laws of the Great Lakes, which says
24 \$50.00 for a 24-hour period, and if there is
25 a movage in the harbour, it is \$25.00.

26 THE CHAIRMAN: In any event, that is
27 in evidence. It would be a matter of argument.

28 MR. LANGS: I do not want there to be
29 anything on the record that is confusing.

30 Q. As far as you are concerned, Mr. Day, do



1 English

2 you know the charges made by the lake pilots?

3 A. As I understand them it is \$54.00 for
4 24 hours and \$25.00 for docking and \$25.00 for
5 undocking.

6 Q. \$50.00?

7 A. \$50.00 for 24 hours.

8 Q. Can you conceive of any owner of any
9 vessel paying less than \$75.00 for having his
10 vessel brought in and docked by a lake pilot?
11 Is there something I don't know about that is
12 going to cost him less than \$75.00?

13 A. No, sir.

14 Q. Mr. Day, you have been in the local
15 harbour for some time. You have seen the
16 operations of the local harbour pilots and the
17 operation of the lake pilots. Now, have you
18 of your own knowledge had vessels coming into
19 Hamilton harbour which has a lake pilot aboard
20 and where a harbour pilot is asked for?

21 A. Yes, yes. We have several lines oper-
22 ating into Hamilton that insist there is a
23 harbour pilot on board regardless of whether
24 there is a lake pilot or not.

25 Q. Can you name those lines?

26 A. Saguenay, and what is the Nasser Steam-
27 ship Company? Keel Shipping is the agent.
28 Egyptian Shipping Line.

29 Q. Any others?

30 A. No, no.



1 English

2 Q. Then there are also individual ships
3 which have had lake pilots on them and they
4 have demanded or asked for a local harbour
5 pilot?

6 A. Yes.

7 Q. Is the one instance the one you gave
8 us where this chap came in and then found
9 himself fouled up with these pipelines?

10 A. That is the one.

11 Q. Any others?

12 A. Do you mean besides Keel Shipping?

13 Q. Yes.

14 A. And Saguenay?

15 Q. Yes.

16 A. No, I can't say. I can't recall.

17 Q. Now, tell me, Mr. Day, what would
18 happen if because or for economic reasons
19 which would be a matter of argument before
20 this Commission, the local pilot is done away
21 with; the local harbour pilot is no more, and
22 there is no tug boat service, what will these
23 vessels do which have heretofore asked for a
24 local pilot? What will they do?

25 A. They will have to come in on their own
26 or wait. Wait outside.

27 COMMISSIONER SMITH: Wait for what?

28 THE WITNESS: Well, I guess all I can
29 say they will have to come in on their own if
30 there is no pilotage service. We have liner



English

1
2 companies with Masters and mates and so on
3 who have this B licence. A Master might be
4 up two years and he is sent home on vacation
5 for three months or so. They bring a man
6 in for a Master from maybe the Mediterranean
7 or the other run. Most of these particular
8 vessels probably have a B licence, so they
9 get to Hamilton or Toronto or whatever port
10 they are going to, and the Master is new up
11 here. He is going up the lake all right
12 because his mate has a B licence, but he don't
13 come into the harbour without a local harbour
14 pilot because he don't trust his second mate
15 enough to berth the vessel and so on. So he
16 wants a local harbour pilot.

17 Q. Just if I could repeat a question
18 asked by one of the Committee to you, he is
19 going to wait out there -- what is he going
20 to wait for? What is he going to do ultimately?

21 A. Well, if there is no pilotage, no pilot,
22 he is going to come in on his own.

23 Q. What would you think of the condition
24 of the harbour, as far as pilotage is concerned,
25 as far as movements of ships and so on, if there
26 were no local harbour pilots?

27 A. Well, I don't think it would be very
28 good.

29 THE CHAIRMAN: Any further questions?

30 MR. LANGS: Captain Tice.



1 English

2 THE CHAIRMAN: Thank you very much,
3 Captain.

4 (Witness withdrew).

5
6 CAPTAIN B. J. TICE, Sworn

7 DIRECT EXAMINATION BY MR. LANGS:

8
9 Q. Captain Tice, what is your present
10 occupation?

11 A I am Assistant Manager of the Hamilton
12 Shipping Company.

13 Q. And prior to that time and since the
14 age of 16, what has been or what have been
15 your occupations?

16 A. I have been in Hamilton for three years.
17 Previous to that I was four years in Montreal.
18 Previous to that I was at sea with several
19 British companies, during which time I obtained
20 my Master's foreign going certificate, serving
21 in various capacities.

22 Q. Have you in the course of your experience
23 visited most of the world ports?

24 A. Well, a very great number of them.

25 Q. What is the situation with respect
26 to pilotage in those ports?

27 A. Well, I would say in 99% of them there
28 are local pilots.

29 Q. Can you from your experience tell the
30 Commission why that is so?



1 English

2 A. Well, so that the Masters can obtain
3 the benefit of their local knowledge and see
4 that the ships move as expeditiously as
5 possible,

6 Q. What would you say with respect to
7 the experience of the lake pilots as opposed
8 to the experience of the foreign pilots who
9 have visited the Hamilton port frequently?

10 A. Well, in many cases, particularly with
11 the ships which trade regularly to Hamilton
12 from Europe and the United Kingdom, the Masters
13 of those ships have far more experience in
14 Hamilton harbour than some of the lake pilots
15 which come into port.

16 Q. Do you know whether or not these
17 experienced pilots ask for local harbour
18 pilots?

19 A Experienced Masters?

20 Q. Yes.

21 A. Well, it varies very much from one Master
22 to another, but many of them take the harbour
23 pilot every time, and a lot of them will take
24 the harbour pilot for various reasons, such
25 as bad weather, fog, possibly because they are
26 going to a new dock or something of that nature.

27 Q. What do you know of the feelings of these
28 foreign Masters with respect to their appreci-
29 ation of the abilities of our local pilots?

30 A. Well, we are agents for probably 75% of



1 English

2 the ships which come into Hamilton and so I
3 speak to a lot of these Masters, and I can
4 honestly say in the three years I have been
5 at Hamilton, I have never had one criticism
6 of the local harbour pilots.

7 Q. I believe that you were the agent for
8 the YILDUN which was involved in an accident
9 with the SILVIA?

10 A. That is correct.

11 Q Did you view this after the accident
12 had occurred?

13 A. Yes, I viewed the damage to the YILDUN
14 which was ^{the} /ship moored to the dock and I spoke
15 to various people who had seen the accident,
16 including the Master of the YILDUN, and the
17 general consensus of opinion was that it was
18 an accident which should never have happened.

19 Q. What do you say with respect to delays
20 caused by lake pilots as opposed to local
21 harbour pilots?

22 A. Well, there were very, very few delays
23 that I can think of caused by harbour pilots,
24 if any. At the most, it might be half and hour
25 or an hour, but with the lake pilots coming
26 over from Port Weller, not because of the fault
27 of the lake pilots, but because of the fault
28 of the ordering system, there is sometimes delay.
29 We have to give the pilot dispatcher at Port
30 Weller six hours notice in order to get a lake



1 English

2 pilot over to Hamilton, and it is very difficult
3 to estimate the exact finishing time of a ship,
4 and usually as agents we play safe, and if
5 the stevedore says we are going to finish at
6 ten o'clock at night, rather than bring a
7 pilot over too soon and keep him waiting, we
8 are inclined to order a pilot, say, eleven
9 o'clock or midnight.

10 Now, the stevedore could be a little
11 bit out in his judgment, and may finish the
12 ship at eight or nine o'clock. We have ordered
13 the pilot for eleven. There is no possibility
14 of changing that order in time, so the ship
15 waits until the pilot shows up.

16 This is the kind of delay we do get
17 getting pilots from Port Weller. It is the
18 kind of delay we do not get if we use local
19 pilots.

20 Q. Are these delays frequent or infrequent?
21 Are they usual or unusual?

22 A. They are by no means uncommon. I would
23 not call them frequent, but they are by no means
24 uncommon.

25 Q. Can you estimate in dollars what the
26 delay might be to certain vessels?

27 A. Well, some of the big 15,000, 16,000 ton
28 ships which we get in these days have a
29 running cost of close to \$2,000.00 a day, so
30 you figure it is \$100.00 an hour.



1 English

2 Q. Can you throw any light on the predicament
3 of a vessel which is accustomed to use a local
4 harbour pilot and there is no local harbour
5 pilot available?

6 A. Well, it would definitely slow the general
7 operation of the port down because whilst most
8 Masters, in fact almost without exception all
9 Masters are capable of bringing their own ships
10 into port and docking them without the assistance
11 of the local pilot, they would always wait until
12 everything was in their favour. For instance
13 they would wait for almost perfect weather. If
14 it was nighttime when they arrived they would
15 wait for daylight before they docked. This,
16 of course, can cause a lot of confusion and a
17 lot of cost because there might be gangs waiting
18 on the dock. There may be other ships waiting
19 for the berth. All these things would cause
20 a very confused situation.

21 MR. LANGS: Thank you very much.

22 COMMISSIONER SMITH: If your Lordship
23 pleases I would like to ask the witness a couple
24 of questions.

25 Captain, what year did you get your
26 foreign-going ticket?

27 THE WITNESS: 1952.

28 COMMISSIONER SMITH: 1952, and after
29 that did you have considerable experience in
30 command of a ship?



1 English

2 THE WITNESS: I did not say I had
3 command. I said I served as mate. I served
4 as mate for about four years.

5 COMMISSIONER SMITH: As mate?

6 THE WITNESS: Yes. I had my Master's
7 ticket.

8 COMMISSIONER SMITH: Yes, that is what I
9 understood. Even as mate -- whether you sailed
10 as Captain or mate does not matter, I suppose --
11 what is your opinion with regard to the use of
12 radar as a reliable aid to navigation?

13 THE WITNESS: Oh, I think it is an
14 invaluable aid to navigation; but it is by
15 no means the whole answer, of course.

16 COMMISSIONER SMITH: No, but you would
17 not care to do any navigating in these days
18 without the aid of radar, would you, if you were
19 in command of a ship?

20 THE WITNESS: No, I certainly would not,
21 especially in the Great Lakes.

22

23 CROSS-EXAMINATION BY MR. LALONDE:

24 Q. Captain, how often do some of your deep
25 sea ships come into the harbour of Hamilton?
26 I am referring to those who make the most
27 frequent appearances in the harbour?

28 A. Well, the ones running from the U. K. and
29 Europe can make five trips in a season. Quite
30 a lot of the ships first of all discharge at



1 English

2 Hamilton and then come back to load a couple
3 of weeks afterwards. So some of them are in the
4 port ten times a year. That would be the
5 maximum.

6 Q. I am asking this question because you
7 said some Masters have a lot more experience
8 than the lake pilots in Hamilton harbour.
9 Exhibit 1111 shows that only for the last year
10 there were 201 trips made by lake pilots in the
11 Hamilton harbour. You have six harbour pilots.
12 That makes a fair number of trips per man, I
13 suppose?

14 A. That is possible. But a lot of these
15 Masters' experience with Great Lakes trading
16 goes back at least ten years. If they have been
17 calling at Hamilton six or seven times as a
18 reasonable average for ten years they have been
19 in and out of port quite a lot of times.

20 Q. That is the way you calculate it in
21 saying some of these men would have been making
22 it regularly for the last ten years?

23 A. Yes.

24 Q. I notice that you mention this business
25 of delays which may occur when ships finish
26 loading earlier than expected. In such
27 instances even though the ships might want to
28 use a local pilot to leave earlier, they would
29 still have to use a lake pilot to go to Port
30 Weller or Kingston, would they not?



1 English

2 A. Yes, that could well be the case.

3 MR. LALONDE: Thank you.

4

5 CROSS-EXAMINATION BY MR. BRISSET:

6 Q. Captain Tice, you told us you were
7 Assistant Manager of the firm called Hamilton
8 Shipping Company. Is your firm involved in
9 doing business in any of the other ports but
10 Hamilton?

11 A. We have an associate company at Fort
12 William called Lakehead Shipping Company.

13 Q. Have you been at all involved with
14 the problems of port pilotage in Fort William?

15 A. Only indirectly.

16 Q. Are you able to comment on those by
17 comparing them with those in Hamilton?

18 A. No. I do not know the system out there
19 well enough to be able to make the comparison.

20 Q. You have told us that your firm in
21 Hamilton represented about 75% of the ships
22 coming into the harbour. Can you describe to
23 us the procedure that you would follow in order
24 to get a harbour pilot on board an inbound
25 ocean ship? How is communication established
26 and what is the procedure?

27 A. Well, it is a very simple and practically
28 foolproof system. First of all there is
29 continual communication between the Toronto
30 Harbour Commission control office and our own



1 English

2 office. Consequently Hamilton Harbour Control
3 know when a ship leaves Toronto. We must
4 remember that at least 90% of the ships coming
5 into Hamilton come from Toronto. So they know
6 when the ship sails from Toronto. They know
7 within a few minutes how long it will take to
8 get from Toronto to the harbour buoy at Hamilton.
9 They accordingly have a pilot out on the buoy
10 waiting to meet the ship.

11 Quite independent of the communication
12 between the two harbour commissions, the
13 Toronto agents will call us and advise us that
14 the ship has left. We will in turn advise
15 the Harbour Commission. In this way it works
16 very well with the minimum of delay and the
17 minimum of trouble.

18 Q. In other words you keep a very close
19 tab on the traffic coming into your harbour?

20 A. That is correct.

21 Q. Let us assume that you have a ship
22 coming from Toronto from, say, Port Weller or
23 Kingston and there is a trans-lake pilot on
24 board. How will you decide whether you should
25 call for a harbour pilot?

26 A. This is a very difficult and vexing
27 problem. We never do know; at least quite
28 often we do not know.

29 We try and get in touch with the ship
30 by radio-telephone and ask them if they want a



English

1 harbour pilot. If we cannot get any communi-
2 cation we quite often play it safe and send
3 a harbour pilot out anyhow. The result of this
4 is he is often sent back in again without being
5 used. The ship has to pay a penalty; but it
6 is better to do it that way than to have the
7 ship get up to the Fairway buoy and anchor
8 and then call for a pilot, which they will not
9 get for an hour or so at least afterwards.

10 Q. In other words in your own operations
11 and in your own good judgment you prefer not
12 to take a chance and you send a harbour pilot
13 even if you know that there is a trans-lake
14 pilot on board?

15 A. Yes, definitely.

16 Q. On giving us this opinion are you
17 speaking as a Master or as a ship operator?

18 A. Well, I am speaking first as a Master
19 and also as somebody who has spoken to many,
20 many captains sailing the location. We know
21 what their opinions are fairly well.

22
23 CROSS-EXAMINATION BY MR. JACQUES:

24 Q. You said that you have never heard
25 of any criticisms of harbour pilots. Have you
26 heard criticism of lake pilots and/or District
27 pilots?

28 A. Yes, I have, but particularly some of
29 the American lake pilots.

30 Q. I see. What was the nature of the



1 English

2 criticism which you heard?

3 A. Well, it is mainly a criticism of their
4 lack of knowledge of local conditions.

5 Q. In Hamilton?

6 A. Yes.

7 MR. JACQUES: Thank you, sir.

8 MR. LALONDE: Did you have any criticism
9 about the lack of local knowledge by Canadian
10 lake pilots?

11 THE WITNESS: I cannot recall any
12 instance of that, no.

13 THE CHAIRMAN: But I do understand from
14 previous evidence that the Canadian pilots
15 generally cooperate with the harbour pilots
16 and they always double up almost 99%, I think
17 was said this morning, when they come to the
18 harbour -- they stand by?

19 MR. LALONDE: The evidence, I think,
20 my Lord, this morning was to the effect that
21 in the old operation they were mainly District
22 pilots, registered District 1 and District 2
23 pilots.

24 THE CHAIRMAN: Not lake pilots?

25 MR. LALONDE: Not lake pilots; before
26 the lake pilots were appointed and when the
27 District 1 pilots, for instance, were called
28 upon to take ships to Hamilton, which they did
29 not before the international system was set up.

30 MR. BRISSET: On this topic, Captain, in



1 English

2 your own experience when a ship comes in with
3 both a trans-lake and a harbour pilot, who does
4 the job?

5 THE WITNESS: The harbour pilot unquestion-
6 ably.

7 MR. JACQUES: Captain, as a practice
8 today what happens to your ship? You say that
9 most of them have trans-lake pilots when they
10 arrive at Hamilton?

11 THE WITNESS: No. Most of the ships
12 arriving in Hamilton are regular traders and
13 have B licences on board. Nearly all the
14 trans-lake pilots are on the ships which do
15 not call at Hamilton on a regular basis --
16 I should say, do not even come into the Lakes
17 on a regular basis -- and consequently do not
18 have a B licence on board.

19 MR. JACQUES: What would be the proportion
20 of ocean shipping which would be included in
21 that class of ships?

22 THE WITNESS: I would say that these
23 days probably 60 or 70% of the ships coming
24 into Hamilton would have B licences on board.
25 But this is a guess; I have not any figures
26 to substantiate it.

27 MR. JACQUES: I see. But from your own
28 experience as a ship agent surely you must be
29 slightly familiar with this problem of the
30 carrying of a B licence?



1 English

2 THE WITNESS: Yes, we are. We do not
3 keep actual records. We know, of course, whether
4 the ship has a B licence or has not got a B
5 licence.

6 MR. JACQUES: But is there, let us say,
7 a practice of doubling up of pilots at
8 Hamilton?

9 THE WITNESS: Well, we do not make a
10 practice of it. We use our own judgment, as
11 Mr. Day said. Some companies have got a
12 standing order that regardless of whether there
13 is a lake pilot on board or not we send out a
14 harbour pilot. On other ships we know that
15 the captain always wants a harbour pilot. On
16 other ships again we try and communicate by
17 radio-telephone before the ship gets in to
18 ask if they want a harbour pilot. So you
19 cannot lay any hard and fast rules down on
20 this thing.

21 MR. JACQUES: But is it more frequent
22 that there is a doubling up of pilots?

23 THE WITNESS: Well, I think Mr. Day
24 once again would know how frequently it
25 occurs. It is fairly frequent. It is fairly
26 frequent, but I would not like to express it
27 as a percentage.

28 MR. JACQUES: Have you traded on the
29 lakes yourself?

30 THE WITNESS: No.



1 English

2 MR. JACQUES: Never? Thank you.

3 MR. LALONDE: You referred to two
4 companies, Saguenay Shipping Limited -- well,
5 you did not; it was the witness before.

6 THE WITNESS: Yes.

7 MR. LALONDE: Saguenay and Egyptian
8 Lines; is that it?

9 THE WITNESS: It is the Egyptian
10 Government Company. I do not know the name
11 of it.

12 MR. LALONDE: Are you acting for those
13 lines?

14 THE WITNESS: No, we do not act for
15 either of those. We do act for a third
16 company that has the same standing order. It
17 is the Nedlloyd Lines.

18 MR. LALONDE: Are you aware whether
19 there is such a standing order for Saguenay?

20 THE WITNESS: Yes.

21 MR. LALONDE: And the standing order
22 you received; did you receive it from the
23 company in Montreal or what?

24 THE WITNESS: In the case of the
25 Nedlloyd ships which we are agents for, we
26 received it from the general agency in
27 Montreal.

28 MR. LALONDE: The Nedlloyd is connected
29 with the Saguenay?

30 THE WITNESS: No, it is an entirely



1 English

2 separate organization. It is a Dutch
3 company.

4 MR. LALONDE: I see. These ships
5 that are coming on a regular basis, you say
6 they formed the large majority of ships in
7 Hamilton?

8 THE WITNESS: Yes.

9 MR. LALONDE: Surely the large majority
10 of them will have B licences?

11 THE WITNESS: Yes.

12 MR. LALONDE: But they would not
13 require pilots across the lake or in Hamilton
14 harbour itself anyway? They are not obliged?

15 THE WITNESS: They are not obliged
16 to take a pilot.

17 MR. LALONDE: I am sorry, they are
18 not obliged to take a pilot. But you say that
19 in the majority of cases they want to have
20 a pilot anyway?

21 THE WITNESS: That is it.

22 MR. LALONDE: For Hamilton harbour?

23 THE WITNESS: That is correct.

24 MR. LALONDE: That is when they order
25 a local pilot?

26 THE WITNESS: That is correct.

27 MR. LALONDE: In such instances normally
28 they would not have a lake pilot on board?

29 THE WITNESS: That is correct.

30 MR. LALONDE: To your knowledge do ships



1 English

2 having B licences use pilots to do lake work?

3 THE WITNESS: I have never heard of one
4 having a lake pilot.

5 MR. LALONDE: Do you have any idea
6 of the proportion of ships which come into
7 Hamilton that have B licences on board -- let
8 us take open ships?

9 THE WITNESS: I think I said 75% earlier
10 on in my testimony.

11 MR. LALONDE: So if they want to take
12 a local pilot then it is a matter of
13 convenience for them?

14 THE WITNESS: It depends entirely on
15 the Master's own judgment.

16 MR. BRISSET: When there is doubling
17 up of pilots on pilotage, as we are always
18 interested in the financial aspects of the
19 question, may I ask you who pays who and what
20 according to your experience?

21 THE WITNESS: Well, of course the ship
22 owner pays those bills.

23 MR. BRISSET: That has been your ex-
24 perience?

25 THE WITNESS: Oh, yes.

26 MR. BRISSET: The ship to pay for two
27 pilots?

28 THE WITNESS: Yes. Even on the
29 occasions when we have sent a harbour pilot
30 out and he has not been used the ship is still



1 English

2In fact he has not even been on board
3 the ship; the pilot boat has just turned
4 round and come back in again. The ship has
5 still had to pay a pilotage bill.

6 MR. LALONDE: Have you had instances
7 where the local pilot was sent and was not
8 used?

9 THE WITNESS: Yes. Once again I did
10 touch on this in earlier testimony. There
11 are occasions when we cannot get in touch
12 with the ship. We know there is a lake
13 pilot on board and we therefore have to use
14 our own judgment as to whether a harbour
15 pilot is also required or not. Rather than
16 risk a delay to the ship we will send a
17 harbour pilot out anyhow and he can get almost
18 up to the pilot ladder and be told to go home
19 again.

20 THE CHAIRMAN: Why do you feel it is
21 necessary to have a local pilot on board
22 when there is a trans-lake pilot on board?

23 THE WITNESS: Because of the dis-
24 satisfaction which a lot of the Masters have
25 with lake pilots when they are berthing ships
26 in Hamilton.

27 THE CHAIRMAN: They say that they may
28 be good as lake pilots but not as harbour
29 pilots?

30 THE WITNESS: That is correct.



1 English

2 MR. LALONDE: The instructions you
3 received from Montreal were from, what would it
4 be called -- the general agent?

5 THE WITNESS: The general agent for
6 Canada.

7 MR. LALONDE: Was there any mention
8 that this order was issued because of dis-
9 satisfaction with lake pilotage or because it
10 was the policy of the Shipping Federation that
11 there should not be lake pilotage and therefore
12 local pilots should not be used?

13 THE WITNESS: No. I think that several
14 Masters have reported adversely on the lake
15 pilots and as a result of these reports this
16 standing order has been issued by the company.

17 MR. LALONDE: Were there any reasons
18 given on the standing orders that you received?

19 THE WITNESS: No. We were just told to
20 make sure that all the ships had a harbour
21 pilot.

22 THE CHAIRMAN: Are there any further
23 questions of Mr. Tice?

24 Thank you very much, Captain.

25 (The Witness withdrew).

26
27 R. WILLIAM HARMER, Sworn

28
29 DIRECT EXAMINATION BY MR. LANGS:

30 Q. Mr. Harmer, you may recall certain



1 English

2 questions having been asked of Mr. Day in
3 connection with Exhibit 1110, which sets out
4 the revenue and expenses in connection with
5 towing, pilotage and harbour control. I
6 believe you have some figures which you can
7 break down for the satisfaction of one of the
8 Counsel who was inquiring with respect to this.

9 Now, can you take these figures and give
10 us some idea of the breakdown of expenses? For
11 example, the towing in 1963 and the pilotage
12 in 1963. Tell me from your records, and I
13 believe you are looking at records taken from
14 the records of the Hamilton Harbour Commission?

15 A. That is correct.

16 Q. Will you show the breakdown as far as
17 you can?

18 A. Under the item of towing in 1963 the
19 revenue figure is revenue derived from tug
20 operations. The expenses under towing are
21 simply wages, repairs, the fuel costs. These
22 are actual operating expenses. Under pilotage
23 in 1963 under revenues there is the figure of
24 \$20,890.00. This figure is composed of income
25 from the pilot boat of \$9,100.00 and from
26 revenues derived from actual piloting of
27 \$11,790.00. The expenses under pilotage are
28 composed mainly of salaries.

29 Q. Of what?

30 A. Mainly salaries.



1 English

2 Q. Mainly salaries?

3 A. That is correct. Excuse me, I am sorry.

4 It is composed of two things; salaries and the
5 pilot boat expenses which would be wages,
6 repairs, and fuel bills on the pilot boat.

7 Q. Insurance?

8 A. That is correct.

9 Q. And the harbour control?

10 A. The harbour control consists entirely
11 of expenses and this is the cost of operating
12 harbour control office and also includes the
13 cost of operating the Seaway teletype. There
14 is a monthly charge for this and repair bills
15 for the various pieces of equipment used in
16 the harbour control office.

17 Q. This harbour control, the word "control"
18 really has not too much meaning. This is
19 simply the Harbour Master's office?

20 A. That is correct.

21 MR. LALONDE: Could I correct the
22 Exhibit? I have the Exhibit here.

23 MR. LANGS: Yes. Instead of "control"
24 it should be "Harbour Master's office".

25 Q. Now in 1962?

26 A. In 1962 the income from the pilot boat
27 was \$13,390.00 and the income from pilotage
28 was \$15,310.00 to comprise a total of \$28,700.00.

29 Q. Revenues -- I guess it is self-explanatory.

30 A. Those were the revenues.



1 English

2 Q. And the expenses?

3 A. And the expense figure is lumped together
4 and I am unable to break down the expense of
5 pilotage salaries as against the expense of
6 the pilot vessel itself.

7 Q. There would be, in your opinion, the
8 same breakdown for the other years?

9 A. That is correct.

10 MR. LANGS: That is all, thank you.

11 COMMISSIONER SMITH: I would like to
12 ask you a question in connection with the
13 revenue derived from cargo rates. I understood
14 from a previous witness there was a four percent
15 impost on cargo and I would like to know what
16 the revenue amounted to in 1963.

17 THE WITNESS: I am sorry, sir, I don't
18 have the figure, the figure of the total
19 revenue. The cargo rates, I believe Mr. Morgan
20 referred to them as around four cents a ton.
21 This varies with the commodity, of course.
22 I am sorry I don't have the total revenue.

23 COMMISSIONER SMITH: The revenue collected
24 from the impost?

25 THE WITNESS: No.

26 COMMISSIONER SMITH: Who would have that?

27 THE WITNESS: Our accountants would have
28 it. This could be sent in.

29

30



1 English

2 CROSS-EXAMINATION BY MR. LALONDE:

3 Q. I have made some calculations on
4 Exhibit 1110 and Exhibit 1111. I notice
5 discrepancies between revenues and expenses as
6 between 1110 and 1111. Do you have Exhibit 1111?

7 A. No. I am aware of the discrepancy.

8 Q. 1963 would get me \$20,815.00 versus
9 \$20,890.00. 1962 is \$28,700.00 versus \$29,126.00.
10 1961 is \$18,055.00 versus \$17,772.00?

11 A. Yes, that is correct. These figures
12 with regard to the comparative statement of
13 pilotage were taken directly from Mr. Day's
14 records, from our Harbour Master's records.
15 The summary of revenue and expenses for the
16 pilotage and associated services was taken
17 from our ledgers and there have been some
18 adjustments made from the original figures
19 submitted by Mr. Day between then and the time
20 they were actually invoiced.

21 Q. There would be further charges made or
22 expenses incurred between what appeared in Mr.
23 Day's books and the Harbour Commissioner's
24 ledgers?

25 A. I would just say adjustments may have
26 been made.

27 Q. What is the correct figure? Is that
28 figure in Exhibit 1110, the details you have
29 given before?

30 A. Yes.



1 English

2 Q. Rather than Exhibit 1111?

3 A. Yes.

4 Q. Is that correct?

5 A. Yes.

6 THE SECRETARY: My Lord, at this time
7 I wonder if I should ask the witness to intro-
8 duce himself.

9 MR. LALONDE: We haven't found out where
10 you are from and what you do.

11 A. I am a Civil Engineer, Manager of Engineer-
12 ing for the Commissioners.

13 Q. So the figures given in Exhibit 1111 should
14 be taken as not quite exact?

15 A. That is correct.

16 Q. Now you mentioned what was included in
17 expenses. Do you put in depreciation on tug
18 and pilot boat?

19 A. No, these were out-of-pocket piloting
20 expenses.

21 Q. These are calculated on an out-of-pocket
22 basis, no depreciation taken in any case?

23 A. Yes.

24 Q. Do you have any idea of the value of
25 the tug boats?

26 A. I am not positive with regard to the
27 value of the pilot boat. The one tug, the
28 65 foot tug would be worth in the neighbourhood
29 of 50 - 60,000 dollars. The larger vessel
30 is used for the passenger business and would



1 English

2 probably be in excess of \$100,000.00.

3 Q. No account is taken of depreciation
4 in these figures?

5 A. To the best of my knowledge, no.

6 Q. And as far as the expenses for the
7 tug boat which is used for other purposes
8 at the same time are they calculated on a
9 cost sharing basis?

10 A. Excuse me?

11 Q. You have the tug called the MACASSA?

12 A. Yes.

13 Q. Which does some other service at the
14 same time?

15 A. The figures for the MACASSA are not
16 included in the towing figures. You will note
17 on Exhibit 1110 towing services up to 1961
18 were provided by the MACASSA as required but
19 the figures in 1962 and 1963 are strictly the
20 figures for the smaller tug.

21 Q. But the MACASSA was used in 1962 and
22 1963, was it not?

23 A. I could be wrong -- one or two times.

24 Q. But you did not take its cost in
25 consideration at all?

26 A. No.

27 Q. Would you have taken the salaries
28 involved in the case of the use of the MACASSA
29 in 1962 - 1963?

30 A. We hire a crew to operate the MACASSA



1 who actually do nothing but operate the
2 MACASSA during the summer months.

3 Q. Do I understand you to say even though
4 the MACASSA was used occasionally in 1962
5 and 1963 no expenses for that tug were included
6 in the figures here?

7 A. That is right.

8 Q. Do you know if the revenues which
9 would have been obtained from the MACASSA
10 would have been included in revenues also?

11 A. I cannot answer that, I am sorry.

12 MR. LALONDE: Thank you.

13
14 CROSS-EXAMINATION BY MR. JACQUES:

15 Q. What about the salaries? You mentioned
16 salaries were included in, say, the pilotage
17 section?

18 A. Yes.

19 Q. I understand from previous evidence
20 that the pilots sometimes act as Master of
21 the tug. Is that correct?

22 A. Yes.

23 Q. And in that particular case do you
24 adopt a portion of the salary to pilotage
25 and the other portion to towing?

26 A. Yes.

27 Q. This is done in Exhibit 1110?

28 A. Yes.

29 Q. What about the radio operators? Where
30 would they fit in?



English

1 A. They would be in the Harbour Master's
2 office.

3 Q. And the radios on board the pilot boat
4 and the tug would be operated by the crew?

5 A. Yes.

6 Q. And you stated, I believe, that you did
7 not know the value of the pilot boat?

8 A. That is correct.

9 MR. JACQUES: That is all, thank you.

10 THE CHAIRMAN: Any further questions?

11 Thank you very much, Mr. Harmer. We
12 will take an adjournment of ten minutes.
13
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30



1 ---Upon resuming.

2 MR. JACQUES: I would like to recall Mr.
3 Morgan. Have you finished, Mr. Langs?

4 MR. LANGS: I have one more witness.

5 MR. JACQUES: Oh, I am sorry.

6
7 CAPTAIN HARVEY RANDLE, sworn

8 THE SECRETARY: Your occupation?

9 THE WITNESS: Harbour Pilot, Hamilton.

10
11 DIRECT EXAMINATION BY MR. LANGS:

12 Q. Mr. Randle, in previous evidence there
13 has been talk of this accident of the YILDUN and the
14 SILVIA. Did you witness this accident?

15 A. Yes, I did.

16 Q. Will you tell the Court very briefly
17 what happened?

18 A. Would you like the points leading up
19 to it? It is explanatory possibly.

20 Q. You just say what you think is proper
21 in connection with the accident.

22 A. The night previous I docked the SILVIA,
23 and it was very stormy, rainy, and before I left I asked
24 the captain if he would like a harbour pilot in the
25 morning. He said, no, that he had a lake pilot on
26 board, and to bring a tug at six o'clock.

27 So before I left the ship again I asked
28 him, I said "It is getting nasty", and I said "If the
29 weather is bad in the morning will you still want a
30 tug?"



1 He said "Yes, you be here anyway at
2 six o'clock." With that we retired for the night, and
3 the following morning we was there about five-thirty.

4 I went aboard, and we talked for a few
5 moments, and I had him sign this waiver. And asked him
6 did he have anything particular in mind that he wanted
7 us to do. He said, no, that the lake pilot would be in
8 charge of manoeuvres, and for us to maybe stand off
9 one thousand feet, and if he required any assistance
10 he would call us.

11 With that I left the ship and went over
12 to the tug, and as they were backing away from the dock,
13 it was still a very windy and stormy morning. I called
14 him on the radio phone and asked him if he would need
15 some assistance to get off the wall. He said, no, they
16 could manage all right, so with that, we stood away
17 about one thousand feet and watched them come into the
18 Wellington Street slip, and he collided with the YILDUN.

19 Q. How did he manoeuvre from the dock
20 until the point that he struck the YILDUN?

21 A. Well, in nautical terms, he sprung
22 the ship off and backed out, but the wind was blowing
23 so strong it was blowing his stern round; it was
24 blowing from the northeast, and then he attempted on
25 an angle to go into Wellington Street slip. Instead
26 of coming straight in, he came in on an angle and
27 consequently he couldn't make the corner, and he
28 collided with the YILDUN beyond the wheelhouse.

29 Q. Was the damage extensive, do you know?

30 A. Yes, quite extensive.



1 Q. Did you ever hear any amount?

2 A. Well, it would be strictly hearsay if
3 I did. One figure was \$60,000.

4 Q. This vessel backed out on her own power?

5 A. That is correct.

6 Q. Was there an alternative way to have
7 brought this ship around the dock?

8 A. Well, everyone does it different. I
9 wouldn't care to make a comment too much on that, but
10 he did have heavy wind against him that morning.

11 Q. You can't think of an alternative which
12 might have been used to have less hazard to dock the
13 vessel?

14 A. Yes, he could have went out in the Bay
15 farther and come in more straight.

16 Q. Also letting the vessel out on the tow
17 line -- I don't know what the nautical term is, winding
18 it around?

19 A. Yes, it was suggested that we use the
20 tugs and warp around the end of, we say, the knuckle at
21 Wellington Street dock and pull him down into the slip,
22 which would have been the logical thing to do.

23 Q. In your opinion that would have been the
24 logical thing to do?

25 A. Yes.

26 Q. Would the lake pilot have been paid if
27 he had done that?

28 A. I am not sure on that. I don't imagine
29 so.

30 MR. LANGS: That is all, thank you.



1 CROSS-EXAMINATION BY MR. JACQUES:

2 Q. Are you the pilot who served two
3 months' apprenticeship in Hamilton?

4 A. Well, I have been there since 1959.
5 I don't know what you are driving at.

6 Q. Where were you before you became a
7 pilot in Hamilton?

8 A. I was with the Beaver Dredging Company
9 in St. Lawrence, plying up and down there.

10 Q. How long have you been a pilot in
11 Hamilton?

12 A. Since 1959.

13 Q. What certificate have you got?

14 A. Inland Master.

15 Q. You served as master before?

16 A. I did with the Beaver people, yes.

17 Q. Where did you trade with the Beaver
18 people?

19 A. Seven Islands, Three Rivers, to Hamilton,
20 Port Weller.

21 Q. For how many years were you master?

22 A. Two years.

23 Q. Pardon?

24 A. Two years.

25 Q. In Hamilton are there any peculiar
26 hazards which a seaman, a reasonably competent seaman,
27 could not foresee?

28 A. Yes, there is. Currents and that.
29 Our Port Director explained the silting.

30 Q. Did you do any pilotage last year, last



1 season?

2 A. Yes, I did.

3 Q. Were you a full-time pilot then?

4 A. Yes, when I wasn't on the tug.

5 Q. How many jobs would you do in one day
6 during the busiest part of the year?

7 A. That is difficult to answer too. Some
8 days you are busy and some days you are not.

9 Q. The busiest day, what would you do?

10 A. Possibly we have had three or four ships.

11 THE CHAIRMAN: Three or four ships per
12 pilot or for all pilots?

13 THE WITNESS: I would say -- you are thinking
14 of possibly eight ships. No, possibly the other pilot
15 was off that day, which happens.

16 Q. You as a pilot, as an individual, during
17 your busiest time, how many jobs did you do?

18 A. From one to three.

19 Q. From one to three? What is the
20 busiest month?

21 A. The early part of June. Latter part
22 of May.

23 Q. Are you able to discern a pattern in
24 your jobs? Are they more frequent at night or during
25 daylight hours?

26 A. It varies. It is a case of when they
27 come.

28 Q. It is not uniform?

29 A. No.

30 Q. You can't say that you work more at



1 night than you do during the day?

2 A. No, that is true. It varies.

3 Q. It varies?

4 A. We seem to get a lot of ships coming
5 early in the morning.

6 Q. Does it happen that you pilot an ocean
7 ship when there is a lake pilot aboard?

8 A. Oh, yes, quite often.

9 Q. In those circumstances who does the work?

10 A. Well, usually the harbour pilot at the
11 Fairway Buoy, the harbour pilot will look after the
12 ship's manoeuvres from there to the dock.

13 Q. He takes over then?

14 A. Yes.

15 Q. Have you ever had occasion to operate
16 a ship when there was a district pilot on board?

17 A. Yes, frequently.

18 Q. Who does the work then?

19 A. As I said before, at the Buoy where the
20 harbour pilot takes over.

21 Q. So whenever you board a ship, even if
22 there is a pilot on board you take over at the Fairway
23 Buoy?

24 A. That is correct.

25 Q. Do you know why they would retain your
26 services when there is a pilot already on board?

27 A. Local knowledge.

28 MR. JACQUES: I see. Thank you, sir.

29 THE CHAIRMAN: When you said a pilot is
30 already on board, do you mean it is uniform whether it



1 is an American or Canadian pilot, or is it more Canadian
2 or more American?

3 THE WITNESS: I guess it is fifty-fifty.
4 They bring the ship maybe from Cape Vincent up, and we
5 take over at the Buoy.

6 THE CHAIRMAN: So it could be an American
7 or Canadian, and they let you carry on from then?

8 THE WITNESS: Yes.

9 BY MR. JACQUES:

10 Q. One more question: are you satisfied
11 with the pilot boat which is at your disposal?

12 A. Yes, very good.

13 Q. Are you satisfied with the boarding
14 facilities which vessels provide for you at the Fairway
15 Buoy?

16 A. At times, yes.

17 Q. At times? When are you not satisfied
18 or unsatisfied?

19 A. Sometimes the ladder is too short.

20 Q. Do you insist that the accommodation
21 ladder be lowered over the side?

22 A. Sometimes it isn't long enough.

23 Q. So you use a Jacob's ladder?

24 A. Well, it is principally Jacob's ladder.

25 Q. Have you ever been involved in an acci-
26 dent whilst boarding a ship or disembarking from a ship?

27 A. No, I have not.

28 Q. You don't know of any such accident?

29 A. No, not in Hamilton.

30 MR. JACQUES: Thank you, sir.



1 THE CHAIRMAN: Any questions? Thank
2 you, sir.

3 MR. LANGS: No further witnesses.

4
5 ---Witness retires.

6 MR. JACQUES: I should like to recall Mr.
7 Morgan for a few questions, please.

8
9 CLIFFORD WILLIAM MORGAN, recalled

10 RE-EXAMINATION BY MR. JACQUES:

11 Q. You are under the same oath, Mr. Morgan.
12 You may be seated if you wish. When your Commissioners
13 first thought of inaugurating a pilotage system did
14 you discuss the possibilities of having a compulsory
15 system? That is, making it compulsory for all ships
16 calling into Hamilton to use the services of your
17 pilots?

18 A. Well, yes, in a way I guess we did.
19 I recall there was some discussion. There was a great
20 deal of opposition to this from the shipping lines be-
21 cause they felt it should be left to the individual
22 masters to decide whether they needed assistance or
23 not. We went along with the thinking of the lines
24 at that time.

25 Q. I see. Do you feel that your instal-
26 lations which are quite valuable are adequately pro-
27 tected with a system such as the one you have?

28 A. You mean compulsory, or at least, non-
29 compulsory?

30 Q. Non-compulsory.



1 A. I feel that this is the case. I think
2 no master of any stature would risk his vessel unneces-
3 sarily. I think if he has any doubt in his mind as to
4 whether he can navigate the vessel through without
5 damage, or in safety that is, he will make the choice,
6 and in all cases this will be a good one.

7 Q. You rely on the commonsense of the
8 masters?

9 A. That is right.

10 Q. I may have asked this question before,
11 but did you consult the DOT with respect to your pilotage
12 system?

13 A. We have had some discussions with their
14 officials.

15 Q. What was the nature of those discussions?

16 A. Well, some of the things that appear in
17 our brief were discussed, such as we would like to see
18 Part VI of the Canada Shipping Act amended to allow our
19 pilots to act with equal status to those of their own
20 pilots in the vicinity of the Port of Hamilton so that
21 they could operate in lieu of a lake pilot.

22 Q. What reply were you given, if any?

23 A. It would be taken under consideration.

24 Q. Have you had a reply so far?

25 A. No reply.

26 Q. Have you given some thought to setting
27 up an apprenticeship scheme for Hamilton, or have you
28 provided for the replacement of your pilots or addition
29 to your pilots?

30 A. No, there is no such apprenticeship



1 scheme. We feel that a pilot must be one who has had
2 experience in navigating in the Great Lakes in other
3 localities as well as the Port of Hamilton, and a man
4 of some years' experience. Then if he requires any
5 -- if he happens to come from another port, has to be
6 hired from another port which has happened in one
7 instance, we give him a period of indoctrination, and
8 also make sure that he is fairly familiar with the
9 chart, of course, and the local conditions.

10 Q. Now, sir, there has been criticism
11 levelled against American pilots by just about every
12 witness who has been in the stand. Have you in your
13 capacity ---

14 MR. LALONDE: Today.

15 Q. Thank you. Have you in your capacity
16 as Port Master ever been aware of this criticism? Was
17 it reported to you officially, or is it just something
18 that has grown ---

19 A. It come to my attention through my
20 contact with the masters. I frequently see these
21 people at lunch or something like that, and I had it
22 discussed at lunch.

23 THE CHAIRMAN: What was the nature of those
24 criticisms?

25 THE WITNESS: Well, it seems that they lack
26 in faith in at least one or two of the American pilots
27 who have been lake pilots.

28 Q. Lake pilots?

29 A. Lake pilots.

30 THE CHAIRMAN: As experienced harbour pilots?



1 THE WITNESS: Well, their experience of
2 local conditions has been the chief complaint -- or I
3 should say criticism. I don't want to use the word
4 "complaint".

5 Q. Now, have you reported these complaints
6 to anyone concerned with pilotage on the Great Lakes?

7 A. Yes. We have as a matter of fact
8 written to the Department in one or two instances -- I
9 can't recall whether it is more than one -- reporting
10 the instance when the vessel took the wrong draw in
11 entering the harbour with an American pilot on board,
12 and as a result scraped bottom. Now, I cannot cite
13 the date or anything else in correspondence but we did
14 in fact write to the Department about this.

15 Q. I see. Have you reported any other
16 instance or criticism to the Department of Transport?

17 A. I believe only in conversation during
18 discussions with pilotage in port.

19 Q. Have you made similar reports to the
20 Great Lakes Pilotage Administration in Washington?

21 A. No, we didn't feel that we were author-
22 ized to make direct recommendations to the United States
23 authorities.

24 Q. You felt you had to go through the
25 Department of Transport?

26 A. The Hamilton Harbour Commissioners
27 report to the Minister of Transport, and therefore we
28 are obliged, in our opinion, to direct any complaint,
29 criticism or any suggestion through the Department of
30 Transport.



1 MR. JACQUES: Now, to change the subject
2 completely, my lord, the witness is also President and
3 Canadian Chairman of the International Association of
4 Great Lakes Ports. This Association, through the
5 offices of Mr. Colvin appeared in Ottawa at the hearing
6 held in December, 1962, and advised us that it would
7 present a brief. However, my lord, on March 23, 1964,
8 we received a letter addressed to us by Mr. Morgan,
9 and the letter reads as follows:

10 Dear Mr. Nadeau:

11 Mr. W. M. H. Colvin, Secretary-Treasurer
12 of our Association, wrote to you on March 11,
13 1964, to advise that the pilotage committee of
14 our Association had decided that a brief should
15 not be submitted to the Royal Commission on
16 Pilotage during its sittings in Toronto.

17 I now have a letter dated March 18, 1964, from Mr.
18 L. C. Purdey, General Manager of the Port of Toledo,
19 Ohio, copy attached herewith, which offers explanation
20 as to why the Committee is reluctant to testify, and
21 I think this will complete the record as far as we
22 are concerned.

23 THE CHAIRMAN: Yes.

24 -

25 -

26 -



FURTHER CROSS-EXAMINATION BY MR. LALONDE

MR. LALONDE:

Q. A witness was heard, who I think was the Port Manager of the Lakehead, and he testified as to the experience last year which he said was very satisfactory and which was roughly the following. That is, that the District 3 pilots would appoint one or several pilots who would be mainly concerned with being pilots in the Lakehead itself. Have you ever given consideration to a scheme by which for instance your pilots might become registered for Lake Ontario as lake pilots and be stationed mainly at Hamilton Harbour? That is the scheme which seems to have been proving satisfactory at the Lakehead. Have you studied anything like that?

A. Oh, yes; we have had this under consideration. A similar suggestion was made by the Department of Transport officials that we should think about this. However, I repeat that the integration of our various services, towing, pilotage and to some extent -- not too great an extent, but possibly some extent our other services such as setting out buoys and aids to navigation, all of these things -- and possibly to some extent policing.

Q. Policing?

A. You might even regard the policing. The integration of all of these four services is important to us because none of them stand on their own feet. Therefore we feel that it is important that we should inter-relate all of our services.



1 Taking your suggestion of registering
2 our pilots, it would seem to me that in the present cir-
3 cumstances of the employment of registered pilots, they
4 would then become employees of the Department of Trans-
5 port, or at least on some kind of a fee system, and
6 would be left to us as persons who could do something
7 else as well. So that is why we have not given too
8 serious consideration to this possibility.

9 MR. LALONDE: Thank you.

10
11 FURTHER CROSS-EXAMINATION BY MR. BRISSET:

12 Q. Mr. Morgan, when you investigated
13 this possibility did you inquire to find out whether
14 the registered pilots would accept to be on a salary
15 from your Commission and at the rate which you are pay-
16 ing your own pilots?

17 A. Well, I do not think we ever approached
18 a registered pilot with this in view. I think the other
19 gentleman's inquiry was whether our pilots should become
20 registered.

21 Q. You did not investigate the situation
22 the other way?

23 A. No, we did not. It did not seem pos-
24 sible that this would come to anything.

25 THE CHAIRMAN: I do not think this infor-
26 mation is in the record as yet. I would like to know
27 whether all the berthing facilities in Hamilton are
28 owned by the Commission or whether they are privately
29 owned or part?

30 THE WITNESS: I am sorry, I donot have a



1 copy of the report here. If you have it in front of
2 you, my Lord, on page ---

3 THE SECRETARY: This is Exhibit 1107.

4 THE WITNESS: On page 6 is a list of the
5 various wharves that are involved in cargo movements
6 and also some proposed wharf sites, I notice. Generally
7 speaking it is a list of those wharves involved in
8 cargo movement and the owners are shown in that next
9 column there.

10 THE CHAIRMAN: So those are the owners?
11 They are not leased to them; they are owned by these
12 people? Like, for instance, the CSL would be the
13 owner of their own dock?

14 THE WITNESS: Yes. By the same token,
15 my Lord, many of the wharves owned by the Commission,
16 as you will notice in the fourth column over or the
17 fifth, I guess it is, under "Lessees" you will notice
18 that these wharves are leased by these various com-
19 panies. So the Commissioners do not operate all of
20 their own wharves. In fact, they operate only Nos.
21 8 and 10.

22 MR. JACQUES: What about the proposed
23 wharves? When do you expect to complete the proposals
24 as set out on pages 6 and 7 of the exhibit?

25 THE WITNESS: Actually this is a matter of
26 economics -- demand for their use; this sort of thing.
27 It is very difficult to forecast when, but it would
28 seem likely that perhaps as regards fifty per cent of
29 them some movement would be on foot to construct them
30 in possibly the next ten years.



1 MR. JACQUES: Thank you.

2 THE SECRETARY: I have just one question,
3 my Lord, to the witness, in connection with the reply
4 he made to the Commission counsel re consultation with
5 the Department of Transport.

6 As you know, there are two types of
7 waters in the Great Lakes Basin with respect to pilotage.
8 There are the designated waters and the undesignated
9 waters. You probably know that Kingston Harbour is
10 in the designated waters of District 1.

11 THE WITNESS: I am sorry; I do not quite hear
12 you.

13 THE SECRETARY: The Harbour of Kingston is
14 in the so-called designated waters of District No. 1?

15 THE WITNESS: I was aware that it was at
16 the terminus of District No. 1. I did not know whether
17 it was included in District No. 1.

18 THE SECRETARY: The question that I wanted
19 to put to you is this: Were you consulted by the federal
20 authorities when consideration was given to the estab-
21 lishment of designated waters as opposed to undesignated
22 waters?

23 THE WITNESS: No, we were not.

24 THE SECRETARY: You were not? Thank you.

25 THE CHAIRMAN: Are there any further ques-
26 tions of Mr. Morgan?

27 Thank you very much, Mr. Morgan.

28
29 ---The witness withdrew.

30 THE CHAIRMAN: Well, Mr. Langs, we thank



1 you very much for this really valuable information and
2 the evidence you gave us.

3 MR. LANGS: My friend has just suggested
4 that I might plead to the case of the Hamilton Harbour
5 Commissioners.

6 My lord, in general I just might say
7 something briefly. As suggested in the regulations
8 and notices sent out by the Secretary we have made as
9 the first page in our brief, the preface which is a
10 summary of our evidence which we hope we have adduced
11 today, and the recommendations are following that. In
12 addition I would just simply say these very few words.
13 I think that we have shown to the Commission that we
14 operate a rather extensive service accommodating
15 ships of all sizes and involving a great deal of money.

16 We have established in Hamilton a
17 voluntary pilotage service which appears to have been
18 appreciated by all foreign ships, and that is what we
19 are interested in here. I think the evidence also has
20 shown that any shipping mishaps, with the exception of
21 one, have been when there have been lake pilots aboard.
22 I think there is also evidence that we have had local
23 harbour pilots on vessels on which there have been lake
24 pilots and the responsibility for the pilotage has been
25 with the local harbour pilots.

26 I think the evidence is also clear that
27 the lake pilot is a man in a transient stage. He is
28 living out of his suitcase. He is serving an apprentice-
29 ship so that he can get established in either Districts
30 1 or 2 so he may be on a salary basis and have achieved



1 some permanency in his chosen vocation. So it is
2 only by accident good or bad that you have an experienced
3 lake pilot coming into the Hamilton Harbour. As
4 positions fall vacant in the District the lake pilot
5 hopes to go forward into that position.

6 I think also that it is a fair inference
7 to make that the method of payment of the lake pilots
8 is conducive to entertaining hazardous pilotage. I
9 think there are methods which could be used which are
10 safer to be used by lake pilots. In the one instance
11 anyway in the opinion of our local harbour pilot it
12 was done in such a manner as to create an accident and
13 one of some extent. Where a simpler and more logical
14 method could have been used it was not used because the
15 lake pilot would not have been paid for using it.

16 MR. LALONDE: My Lord, are we going to go
17 into argument now, because this is completely a free
18 statement unsupported?

19 MR. LANGS: Oh, no, it certainly is not
20 unsupported. You have the evidence of the pilot.

21 MR. LALONDE: When you say that this gentle-
22 man, whoever he is, did this just because he would not be
23 paid ---

24 THE CHAIRMAN: It is an inference that you
25 could draw from that.

26 MR. LALONDE: I would call it an insinua-
27 tion, not an inference.

28 MR. LANGS: It is a fair inference on the
29 evidence.

30 My Lord and gentlemen, I say that there is



1 a decline in the use of the local harbour pilots because
2 of the double payments which must be made if the master
3 wants a local harbour pilot. This service will go
4 into disuse and if it goes into disuse so will the
5 towing, and both these services and the others mentioned
6 by the General Manager are services which are of some
7 value and seem to have been appreciated by all the
8 owners of sea-going vessels. I would say that there
9 is a very big inference on the evidence as submitted
10 that there will be constant delays and that the
11 ordinary commercial intercourse which is now being done
12 has up until now been enhanced by the Hamilton Harbour
13 Commissioners.

14 THE CHAIRMAN: Thank you. As far as the
15 other counsel are concerned, they could add something
16 now if they want or they could argue at the end, as they
17 wish, when we are in Ottawa.

18 This is a practice we have made every-
19 where. We have on record now quite a few arguments
20 like that -- in Saint John, New Brunswick, and
21 Vancouver and various places. The other lawyers have
22 requested to answer when they are in Ottawa. That is
23 up to them. But if anyone just wants to add some-
24 thing right now, it will be all right.

25 In any event, Mr. Lalonde, you made
26 your point there, I think.

27 MR. LALONDE: I would also have other
28 points to make, my Lord, but I think there will be
29 plenty of time for this in Ottawa.

30 THE CHAIRMAN: Yes, when you have heard all



1 the evidence.

2 Thank you very much. As I was saying,
3 we were very much interested in the evidence you brought
4 because we have experienced very often everywhere we
5 go we have a different problem, and here we have a
6 different one in which we are well interested, because
7 it is a question of the dispensation of pilotage ser-
8 vices as against a bigger organization.

9 Whether it is good or not, of course, the
10 economics come into that. We have seen for instance
11 on the Pacific Coast where a pilot is despatched from
12 Vancouver 800 miles. Of course it is a question of
13 economy there. They have not the necessity for towing
14 services there to help the pilotage services, so there-
15 fore they cannot have a service of their own, economi-
16 cally speaking, from what we can see so far. So
17 therefore they have the same problem but with a
18 different angle.

19 Thank you very much. It is going to be
20 quite helpful; thank you.

21 I think we will be too late to have another
22 witness. Would you have another witness for the last
23 ten minutes?

24 MR. JACQUES: No, my Lord.

25 THE CHAIRMAN: So therefore we will adjourn
26 until tomorrow morning at ten o'clock.

27
28 ---Whereupon the hearing was adjourned until Tuesday,
the 7th day of April, 1964, at 10.00 a.m.
29
30

ROYAL COMMISSION

ON

PILOTAGE

HEARINGS

HELD AT
TORONTO

VOLUME No.:

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DATE:

April 7, 1964

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ROYAL COMMISSION ON MARINE PILOTAGE

Proceedings of the hearing held
in the Toronto Board of Education
Building, 263 McCaul Street,
Toronto, Ontario, on Tuesday, the
7th day of April, 1964.

COMMISSION:

The Honourable Mr. Justice Bernier	Chairman
Mr. Robert K. Smith	Member
Mr. Harold A. Renwick	Member
Mr. Gilbert Nadeau	Secretary

COMMISSION COUNSEL:

Mr. Maurice Jacques

PRESENT:

Mr. J. Brisset, Q.C.	for the Shipping Federation of Canada
Mr. Marc Lalonde	for the Federation of St. Lawrence River Pilots; Corporation of the Lower St. Lawrence Pilots; Corporation of Montreal Harbour Pilots; Corporation of the Mid-St. Lawrence Pilots; Corporation of the St. Lawrence River and Seaway Pilots; Corporation of the Upper St. Lawrence Pilots
Mr. Colin Mason	for the Dominion Marine Association
Mr. W. Z. Estey, Q.C.	for the Toronto Harbour Commission



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* * * * *



263 McCaul Street,
Toronto, Ontario,
April 7, 1964.

---UPON RESUMING AT 10:00 A.M.:

MR. JACQUES: My Lord, I must apologize.
We have been talking about the Rules of the Road for
the past year for both the International and Great
Lakes and we haven't yet filed them. I propose to
file them this morning, both the French and English
version, as Exhibit No. 1112.

THE CHAIRMAN: That is the Canadian
issue?

MR. JACQUES: Yes, the Rules of the
Road for the Great Lakes are contained in PC 1954 -
1927 and the International Rules are contained in
PC 1953 - 1287.

THE CHAIRMAN: So you are filing
both in a bundle?

MR. JACQUES: Both in a bundle, My
Lord.

---EXHIBIT NO. 1112: Rules of the Road, International
and Great Lakes.

MR. JACQUES: I will now call upon the
representatives of the Toronto Harbour Commissioners
to file and present their brief and the brief will
be filed as Exhibit 1113.

---EXHIBIT NO. 1113: Brief of the Toronto Harbour
Commissioners.



English

1 MR. ESTEY: My Lord and Commissioners,
2 I am appearing for the Toronto Harbour Commissioners
3 this morning and I have with me Mr. William H. Colvin,
4 who is Secretary of the Commission and also a member
5 of the Bar of Ontario.

6 My Lord, we propose in order, I hope,
7 to be of assistance to the Royal Commission to very
8 briefly deal with the status of the Toronto Harbour
9 Commissioners and then concentrate on presentation
10 in the form of evidence from key members of the staff
11 of the Harbour Commissioners on the question of the
12 pilots here in Toronto and how we view the pilotage
13 question.

14 I have in mind the letter which the
15 Commission Secretary very kindly sent us in February
16 last.

17 I will file first of all the Statute
18 under which the Harbour Commissioners of Toronto are
19 constituted, together with a set of our by-laws. Mr.
20 Jacques has kindly advised me these are on the record
21 of the Royal Commission as Exhibit 516, which will
22 save us the trouble of filing them here.

23 My Lord, may I say before we get into
24 the evidence just this about the Commissioners as
25 constituted under the Statute. The Toronto Harbour
26 Commissioners -- it is an odd name, it is not the
27 Toronto Harbour Commission, for reasons lost in
28 antiquity. They are constituted Federally under
29 a statute passed in the first instance in 1911. The
30 statute has been amended from time to time but the



1 English

2 essential outline is found in the original statute.
3 The method of appointment of Commissioners is some-
4 what novel and it is interesting to note this hybrid
5 organization has proved so successful in spite of the
6 fact it seems to cut across the lawyers' outlook
7 of constitutional law.

8 The Commission consists of five
9 Commissioners, three appointed by the Council of
10 the City of Toronto, one by the Governor-in-Council
11 and one by the Governor-in-Council upon recommendation
12 of the Board of Trade of Toronto. It is patently
13 an unworkable organization which is highly successful
14 in the last half century.

15 The powers of the Commission are
16 restricted to the geographical area of the Port of
17 Toronto. That has been amended lately and it is
18 indicated on the map which we thought might be of
19 assistance to the Royal Commission. The north
20 boundary, suffice it to say without getting into
21 the surveying, lies pretty well along the communi-
22 cations path of railway and highway and of course
23 the boundary out in the lake is outlined on the map
24 itself. The Toronto Islands, which are natural in
25 part and man-made in part, form the outer land
26 limit of the harbour. Apparently that will be
27 Exhibit 1114, My Lord.

28
29 ---EXHIBIT NO. 1114: Map of Toronto Harbour Commis-
30 sioners, referred to.



1 English

2 The Commission will notice that in the
3 left-hand end, the northwest end of the Island is a
4 man-made addition, partially man-made, on which is
5 located the Island Airport. That also is included in
6 the Harbour Commissioners statutory powers. It has no
7 bearing here. I point it out to eliminate it from
8 our minds.

9 The two entrances are shown on the
10 east and west. The one on the west is the main deep
11 sea vessel access point. The eastern channel is a
12 more shallow channel which was blown in by nature in
13 the first instance within the limits of history and the
14 one on the left is man-made.

15 The powers of the Harbour Commission, I
16 need say no more, they are to hold and administer certain
17 property, whether it come from the Province, City, or
18 Federal Government: To pass regulations for the
19 development and operation of the harbour and any trans-
20 portation facilities therein established. It has
21 certain powers of expropriation and it has powers to
22 pass by-laws. Those by-laws do have to be confirmed
23 by the Governor-in-Council. Exhibit 516 are the by-laws
24 up to now.

25 In the Commission letter of February 7th
26 we were asked to draw the attention of the Commission
27 to by-laws regulating the speed at which vessels may
28 navigate the harbour. It is shown in Section 4 marked
29 in red.

30 The financial operation of the harbour



1 English
2 which is always of interest in the political concept
3 of one of these public bodies, the surpluses go to the
4 City of Toronto who avidly await them and the Federal
5 Government in fact from time to time by installing
6 certain physical additions, certain facilities, pays
7 the loss, as it has happened in the past.

8 That, My Lord is a very brief outline
9 of the structure of the Commission. We propose to call
10 first of all the General Manager, Mr. E. B. Griffith,
11 Q.C. Then we will call the Harbour Master, Captain
12 Mann and then some engineering evidence through the
13 engineering department, Mr. Guest. We then have some
14 shipping evidence, which I presume we will reach this
15 afternoon.

16 In order to get to the meat of the
17 problem I would like Mr. Griffith to come forward.

18
19 MR. E. B. GRIFFITH, Sworn

20
21 DIRECT EXAMINATION BY MR. ESTEY:

22 Q. Mr. Griffith, in order to save time
23 and get down to the matters at hand, you are a member
24 of the Bar of the Province of Ontario which we know
25 as the Law Society of Upper Canada?

26 A. That is correct.

27 Q. You have been the General Manager of the
28 Harbour Commission for some time. When were you
29 appointed General Manager?

30 A. 1949, sir.



1 English

2 Q. And prior to that time you have been
3 Secretary of the Harbour Commissioners?

4 A. That is correct.

5 Q. And altogether how long have you been
6 associated with the Commissioners?

7 A. Practically 24 years.

8 Q. Mr. Griffith, we will come back to
9 what I might call general information about the Harbour
10 Commission operation, but in order to get to the meat
11 of this as quickly as we can, would you tell His
12 Lordship and the Commissioners what pilot services,
13 in the general sense of that term, are operated in
14 the Toronto harbour?

15 A. The pilot services being operated by
16 the Toronto Harbour Commissioners are what we refer to
17 as a voluntary pilotage system. It perhaps is a
18 misnomer or misleading to use the word "pilot" because
19 what we supply are experienced personnel to advise and
20 assist the Master of the ship in connection with local
21 conditions.

22 Q. Now that service, as you have described
23 it, Mr. Griffith, was commenced, I believe, in 1961?

24 A. 1961.

25 Q. I take it that prior to the inception
26 of that service to the shipping community you made some
27 investigations. Could you tell us why this function
28 was established?

29 A. It was established as a convenience
30 to the shipping industry, resulting from our studies



1 English

2 and discussions primarily with the Masters of the
3 ships as to their requirements. We had first been
4 approached in 1958 by the Shipping Federation and
5 after discussing the matter with the officials at
6 the Department of Transport and from the information
7 generally available to us at that time, which was
8 prior to the opening of the new St. Lawrence Seaway
9 Canals, we didn't feel that it was advisable then
10 to supply this service. We didn't see the requirement
11 at that time.

12 In 1959 various parties were used by
13 the Masters of the ships to give this assistance
14 and in 1960 the shipping representative in Toronto
15 made arrangements for a Captain Livingstone to be on
16 call for them when their Masters wished to have the
17 local assistance.

18 As our contribution we supplied the
19 office and all of the facilities that go with an office
20 and we supplied them free of charge -- telephone
21 service, etc., stenographical service.

22 We continued our studies and our dis-
23 cussions with the Department of Transport and in the
24 year 1961 with the full knowledge and with the approval
25 of the Department instituted what we call the voluntary
26 pilotage system. We hired at that time as our own
27 employee Captain Livingstone and paid him a salary,
28 put him on the permanent staff with all the fringe
29 benefits connected therewith and made the charges
30 to the ships in accordance with an agreed upon tariff.



1 English

2 I might say, if I might just refer to
3 a note here, we had in 1961 submitted a by-law to
4 Ottawa for the purpose of legalizing pilotage service
5 in Toronto. A draft of that by-law stated any Master
6 or ship requiring or wishing pilotage assistance or
7 service would obtain it from the Toronto Harbour
8 Commissioners who would supply it. It sets forth
9 the charges and rates. It made our berthing master
10 system, which we had put into effect in 1960, a
11 radio control system operating 24 hours a day during
12 the navigation season. We put some teeth into their
13 position and under the by-law made it an offence not
14 to carry out the instructions of the berthing master.

15 As so often happens with a by-law
16 submitted by local authorities they are re-written
17 and in re-writing, again I must say this often
18 happens, they lose completely their meaning and
19 effectiveness. This happened to this by-law. It
20 was left without teeth. It was left without meaning
21 but it did authorize the charges and the Commissioners
22 found themselves in the position of having a by-law
23 being processed through Ottawa authorizing charges
24 which they could make by contract and did not require
25 a by-law for this purpose and which, if we wished to
26 make a change, required a further by-law to effect
27 the change.

28 Therefore, in 1961 with the full
29 knowledge and approval of the proper officials, Mr.
30 Allen Cumming and his staff in Ottawa, and with their



1 English

2 agreement that now has altered. The by-law really
3 had no meaning. It was withdrawn and we then proceeded
4 or continued as we were then in the process of
5 operating a loose contractual arrangement whereby,
6 if I may use the word "pilot", because we have used
7 it all these years, the local pilot would navigate
8 through his card being signed by the Master and obtain
9 a legal method by which we could collect for his
10 services.

11 In 1962, because of the number of
12 requests for this service, we hired a second pilot.
13 If I may go back, Mr. Chairman, in 1959 I might say
14 the Department did supply, at our request, and by
15 arrangement, a qualified or legal pilot, a Captain
16 Cook from the Port Weller area for the Toronto area
17 so there would be a legal pilot available. I am sorry
18 I have forgotten whether he was there three days, four
19 days or five. It was a very short period of time. The
20 Department took him out of Toronto. They said there
21 was no real requirement had been shown for his services
22 and he was badly needed, and I am sure this is correct,
23 in connection with the Port Weller operations.

24 In 1962 and 1963 we operated with two
25 pilots. In all cases we did have qualified personnel
26 on our staff in the form of, for example, Captain John
27 Mann, now our Harbour Master and who was then Deputy
28 Captain. There was Captain John Mumford. In
29 emergencies when we had a large number of requests they
30 would step in and assist either one or the two pilots.



1 English

2 Q. Mr. Griffith, you caused to be prepared
3 under your direction some statistics concerning the
4 operation of the pilot services. I would like to
5 review that with you.

6 THE SECRETARY: The document is being
7 filed as Exhibit 1115. It is "Vessels entered and
8 cleared at the Port of Toronto, 1959 - 1963".

9 ---EXHIBIT NO. 1115: Document entitled Vessels Entered
10 and Cleared at the Port of
11 Toronto, 1959 - 1963.

12 MR. ESTEY: Q. Are you familiar with
13 the Hamilton by-law setting the tariff for pilotage?

14 A. They passed the by-law that we withdrew.

15 Q. That is what I wanted you to acknowledge.

16 A. Yes.

17 Q. They have the same one that you withdrew?

18 A. That is correct. Theirs was altered
19 to the best of my knowledge. The two by-laws were
20 very similar in form at the time they were submitted
21 to Ottawa and to the best of my knowledge the alter-
22 ations made were the same to the two by-laws.

23 Hamilton chose to have the by-law
24 passed thus giving some legal official approval to
25 the charge being made. We chose to withdraw it on
26 the basis we did not require that official right to
27 charge. It could be done by contract.

28 Q. We will go into the actual mechanics
29 with the Harbour Master, but on the last point which
30 you have made, I take it you are saying the Commission



1 English

2 enters into arrangements of a formal or informal
3 nature with the ship owners or their agents for the
4 use of this harbour?

5 A. That is correct. Or with the Master
6 of the ship. I believe it is signed by the Master
7 of the ship.

8 Q. Shall we spend a moment now going through
9 this Exhibit, the first page of which is headed
10 Vessels Entered and Cleared at the Port of Toronto
11 in the years 1959, 1960, 1961, 1962, 1963.

12 A. Rather than reading them off, Mr.
13 Chairman, perhaps we could just point out the average
14 during the four-year period, around 2,200 to 2,300
15 inward movements and approximately the same number
16 outward.

17 Q. On page 2 we have record of foreign
18 vessels, arrivals and departures in the four years
19 1960 to 1963 inclusive?

20 A. In 1960 we had 276 different foreign
21 vessels arriving and departing -- this is a double
22 figure -- 1,708 times. This is arrivals and
23 departures. This is entrance and clearance. 275 in
24 1961 arriving and departing 1,628 times.

25 In 1962 there were 319 foreign vessels,
26 total arrival and departure being 2,008.

27 In 1963, 296 foreign vessels, and the
28 total arrivals and departures being 1,988.

29 Q. On page 3 the table refers to pilotage
30 services performed by the Toronto Harbour Commissioners



1 English

2 pilots, 1961, 1962 and 1963 shown in each of the
3 months April to December inclusive, and again, Mr.
4 Griffith, perhaps instead of reading off the totals,
5 you might comment upon it.

6 A. There were 804 services performed by
7 the Toronto Harbour pilots in 1961. There were 1,015
8 in 1962, and in 1962 there were approximately 400 more
9 arrivals and departures of the foreign ships.

10 There were 805 in 1963, with a drop
11 of approximately 20. There was a drop of 210 of
12 pilotage services performed and a drop of approximately
13 20 ships.

14 This has been set out, sir, on a
15 monthly basis in order to show peak periods within
16 the port.

17 Q. Is there any explanation for the drop
18 from 1962 to 1963?

19 A. It was in October, I believe -- October
20 15, if my memory serves me correctly -- 1962, that
21 regulations were passed which permitted lake pilots
22 to charge \$25.00 for each time that they brought a
23 ship into or out of the port of Toronto. Prior to
24 that time they were paid a regular rate of \$50.00
25 per day.

26 Q. On the next page the statement deals
27 with pilotage performed by the Toronto Harbour
28 Commissioners' pilots for the years 1961, 1962 and
29 1963, and that is broken down according to the pilots
30 performing services, you will see, and then it shows,



1 English

2 extended to the right, the total revenue, and perhaps
3 you might deal with the revenue aspect, Mr. Griffith.

4 A. In 1961 the total revenue received
5 by the Toronto Harbour Commissioners was \$21,023.00.
6 In 1962, \$26,115.00. In 1963, \$21,675.00.

7 I obtained this morning a statement,
8 Mr. Chairman. It rose from a question that was
9 asked yesterday, so I anticipated that the same
10 question might be asked. In 1961 the salary paid to
11 one pilot was \$8,216.66. After total deductions,
12 his net pay was \$6,623.88.

13 In 1962 his salary was \$10,603.88. His
14 net pay, \$8,411.48.

15 The second pilot, Captain Robinson, was
16 paid \$7,257.68, and his net pay was \$5,571.00. May
17 I leave out the cents, sir?

18 In 1963 Captain Livingstone's pay
19 was \$10,200.00 and his net pay was \$8,427.00, to
20 the nearest dollar.

21 Captain Robinson, \$10,002.00, net
22 pay \$7,707.00. If I may make one explanation there
23 as to the difference in net pay, it is the difference
24 in age between the two gentlemen and the increased
25 deductions due to pension for the older employee.

26 COMMISSIONER SMITH: They enjoy all
27 fringe benefits of your other employees?

28 THE WITNESS: Yes, sir. In 1963
29 Captain Livingstone was paid \$10,200.00, net \$8,427.00.
30 I have given that, haven't I? I am sorry, I am



1 English
2 repeating.

3 In connection, Mr. Chairman, with the
4 Commissioner's question, again if I may just refresh
5 my memory from a communication to Captain Livingstone
6 in 1961, setting forth the terms of his employment,
7 the normal work week will be a 40-hour period. Each
8 eight hours worked in excess of 40 hours per week,
9 he will receive one day in lieu thereof, taken at
10 the end of the navigation season. If he works for
11 a period of eight hours on a statutory holiday, he
12 gets one day in lieu. I might say that could be
13 cumulative, four hours in one holiday and four hours
14 in another, due to his peculiar type of work.

15 He receives ten working days'
16 vacation -- that is two weeks -- working days'
17 vacation after a year's employment. Sick leave
18 credit is accumulated after one year's service on
19 the basis of one and one half days per month's
20 service.

21 He is entitled to all other permanent
22 staff benefits in accordance with the rules and
23 regulations thereof. Pension plan, group life
24 insurance, Ontario Hospital Insurance, workmen's
25 compensation, Blue Cross supplementary and PSI.

26 I might say that the Blue Cross
27 supplementary and the PSI are optional. They are
28 at his option.

29 We estimate, sir -- I haven't estimated
30 it for this particular position, but in connection with



1 English

2 our average employee, we estimate that the fringe
3 benefits referred to are the equivalent of approximately
4 35¢ an hour.

5 Q. Turning back, if you are finished with
6 that explanation, Mr. Griffith, to the Exhibit, the
7 second last page deals with the number of occasions on
8 which vessels have employed these harbour pilots?

9 A. That is right.

10 Q. You might just discuss that briefly
11 before turning to the last page which divides the
12 pilotage services between vessels who have lake pilots
13 on board and those that do not.

14 A. I am sorry, Mr. Estey. The first
15 statement is the division between ships with class B
16 certificates and those without class B certificates,
17 with lake pilots on board, for the year 1962.

18 Our services were requested 1,015
19 movements. 769 were with class B certificates on
20 board and 246 with a lake pilot on board.

21 In 1963 there were 594 with class B
22 certificates on board and 211 with a lake pilot on
23 board.

24 Q. Now, Mr. Griffith, having described the
25 nature of the service which has been rendered in the
26 past by the Commissioners and the utilization thereof
27 of the shipping community, I would like to direct your
28 mind to the change in regulations under the Canada
29 Shipping Act which came into effect in October, 1962,
30 copy of which I have placed before you.



1 English

2 You will notice that includes on the
3 second page reference to the charges for the docking
4 of vessels. We know that some differences of opinion
5 have come into being on the question of these harbour
6 pilot services.

7 Will you tell His Lordship if those
8 differences have arisen about the time these new
9 regulations were introduced?

10 A. To the best of my knowledge, which must
11 in this instance come from my staff, there appeared to
12 be no difficulty between the lake pilots and the harbour
13 pilots prior to the fall of 1962. I believe that our
14 Harbour Master will be able to show, if it is desired
15 that he do so, that on occasion lake pilots actually
16 requested that the harbour pilot be used. Since the
17 inauguration of these regulations in the fall of 1962 --

18 THE SECRETARY: Would you specify the
19 regulations?

20 MR. JACQUES: Great Lakes Pilotage
21 Regulations, PC 1962 - 1449, and the witness refers
22 to Section 2 of Schedule B.

23 MR. ESTEY: Actually it is 2, Sub-
24 section 1, sub-sub-section (b).

25 THE WITNESS: We then became aware,
26 not only of the change in attitude of the lake pilots
27 as to the desirability of the port pilot system, but
28 a definite hostility, a concerted attack on the
29 previously acceptable and unchanged system of voluntary
30 harbour pilots, an attack which manifested itself in



1 English

2 many areas, including a most unfortunate deterioration
3 between the Toronto Harbour Commissioners and the
4 Department of Transport, the particular section that
5 was responsible for pilotage.

6 We found that we were being accused
7 of breaches of the law which had never been levied
8 at us previously. The accusations were made without
9 any check taking place to see if they were factual.

10 We were informed that a Mr. Michener,
11 I believe it is -- I have never had the pleasure of
12 meeting the gentleman -- had stated to the Department
13 of Transport officials in Ottawa that we were abusing
14 his pilots, that we were refusing them normal courtesies
15 and services, and that this had been used as a reason
16 why it was necessary to have them bring the ships into
17 the Port of Toronto and to be paid the \$25.00.

18 It seems that every time we turned,
19 in any discussions, sir, in connection with voluntary
20 pilotage, what was wanted, what was desired, what was
21 the best solution to this problem that now suddenly
22 burst upon us with the passing of these regulations,
23 that no matter what the discussion was, a short time
24 thereafter a man named Michener or Mischter vetoed it
25 or said that he wanted additional charges made if
26 anything was to be done.

27 I am told that he was demanding \$50.00
28 now for lake pilots to bring their ships or these
29 ships in or out of Toronto. I am told that this
30 demand was made some time ago, instead of \$25.00. I



1 English
2 am actually told at a recent meeting between the
3 Shipping Federation and the Department of Transport
4 that he made the statement that the ports of Toronto
5 and Hamilton were now under his control just as much
6 as though they were American.

7 We view this with great seriousness, sir.
8 Great seriousness. It started in the fall of 1962
9 with the passing of these regulations, the attacks
10 being made by these lake pilots on the system being
11 operated of voluntary pilotage by the Toronto Harbour
12 Commissioners.

13 Q. Now, Mr. Griffith, this may be an
14 appropriate time to bring this whole matter into
15 focus by asking you, and I should perhaps preface this
16 with the remark that the brief we have filed makes
17 certain general proposals as to what the Commissioners
18 think should be done in this field.

19 I take it, Mr. Griffith, you have a
20 recommendation in mind as to what the Harbour Commis-
21 sioners want in the way of your pilotage services.
22 What is it?

23 A. It has been the position of the Commission-
24 ers who have constantly studied this problem, particularly
25 since 1957, 1958, and while it is alleged that the
26 problem is one of the Department of Transport and not
27 of the local authority, we legally have maintained
28 that we have the right to pass by-laws in this regard
29 provided Ottawa approves them, and that the control
30 and handling of ships in the port cannot be divorced



1 English

2 from the responsibilities of the authority charged
3 with the responsibility of the operation of that
4 port and the safety therein.

5 It is the opinion of the Commissioners
6 in the first place that there is no need for compulsory
7 pilotage in the port of Toronto. It is the opinion
8 of the Commissioners that if any pilotage service
9 or any advice or assistance is to be given to the
10 Masters of the ships, it can best be done under local
11 control, and it can best be done under local control
12 because those in charge of local control know the
13 requirements of the port both physically and
14 economically. They are in the best position to assess
15 the needs and requirements of that port. In all
16 matters pertaining to the port and harbour, that is
17 their responsibility and that is their job.

18 It is also their opinion that pilots
19 which are under their jurisdiction and are exclusively
20 giving assistance to Masters of ships coming in and
21 out of the port when the Masters wish it, have a far
22 better knowledge of the day to day, day by day local
23 conditions than it could reasonably be expected of any
24 pilot who considers and must consider that port simply
25 one of a total area that he must serve.

26 All ports have their own peculiarities.
27 Mr. Chairman, that is a trite statement. I realize
28 you are aware of that. We have ours. Physically we
29 consider the port to be an extremely safe one, and
30 so do all Masters, all qualified personnel that we



1 English

2 have discussed the matter with. It is an easy port
3 in which to navigate.

4 There are, however, local conditions,
5 berthing, ferries operating to and from Toronto Island.
6 There are the regattas that are held within the
7 protected confines of the Bay, and it is this
8 knowledge which is primarily being bought by the
9 steamship company when it uses a local man to assist
10 in bringing the ship in.

11 Also from the point of view of
12 discipline, if there are actions which are undesirable,
13 I would like to suggest that it is far easier and far
14 better for the discipline to be handled by the local
15 authority than to have the local authority, as we
16 have it, complain to another authority, who then takes
17 it up with a third authority who then comes back
18 and says: "This is all their fault anyway because
19 they don't treat us right", which is what has happened.

20 So we suggest that from the point of
21 view of proper discipline it is better that any
22 pilotage arrangement be under the local control.

23 Q. One last question on the immediate
24 subject of the pilots and the service: In a general
25 way, Mr. Griffith, under the present regulations what
26 ships require pilots to navigate in the area of Lake
27 Ontario in which the Toronto harbour is located?

28 A. The ocean ships without a class B
29 certificate, sir?

30 Q. Yes; that is the present situation.



1 English

2 A. That is the present situation. It is
3 our jurisdiction, Mr. Chairman. Our jurisdiction
4 ends one mile south of Gibraltar Point, which on
5 this map would be approximately down here (indicating).
6 We can only make a gratuitous -- I say "we"; I mean
7 on behalf of the Commissioners I can only make a
8 gratuitous comment in connection with Lake Ontario.
9 But I do not wish to be on board an ocean ship with a
10 Master who cannot navigate in Lake Ontario.

11 THE CHAIRMAN: Why?

12 THE WITNESS: Well, if he cannot
13 navigate in Lake Ontario, sir, I do not know where
14 he can navigate a ship in our ports -- in the open
15 waters of Lake Ontario.

16 THE CHAIRMAN: Any Master who can
17 navigate on the ocean you think can navigate on
18 Lake Ontario?

19 THE WITNESS: Yes, sir. As I say, this
20 is beyond our jurisdiction, this area.

21 MR. ESTEY: Q. In closing, Mr. Griffith,
22 I am sure His Lordship and the Commissioners will
23 pardon you if you describe the magnitude of your
24 operations with a note of pride.

25 A. May I just?

26 Q. Have you something else?

27 A. May I just before we get to that?

28 Q. Yes.

29 A. Mr. Chairman, I would like to advise
30 the Royal Commission that the position of the Commis-



1 English

2 sioners has been known from the start, back in 1958,
3 1959, by the officials of the Department of Transport.
4 In the early days of 1958 and 1959 it was the
5 position of Mr. Cumyn that the matter of compulsory
6 pilotage would be one which should emanate with a
7 recommendation from the local authority who was
8 aware of the requirements and needs within their
9 own area and that unless the Commission was prepared
10 to make such a recommendation he did not feel on
11 behalf of the Department that such a step should
12 properly be taken.

13 In November, 1962 the writer and
14 Mr. Colvin met with Mr. Baldwin and then with Mr.
15 Booth. Mr. Baldwin, as you know, sir, is the Deputy
16 Minister of Transport and Mr. Booth at that time was
17 the Senior Assistant to the Deputy Minister. We
18 were referred to Mr. Booth by Mr. Baldwin to discuss
19 questions of pilotage in detail. Mr. Baldwin stated
20 Mr. Booth was handling the matter for him at that
21 time.

22 In our discussion with Mr. Booth we
23 pointed out the difficulties and misunderstandings
24 that had been arising in connection with local pilots
25 and that we were upset about the apparent threat
26 which was developing -- and it certainly developed
27 as we had foreseen it would. We pointed out that
28 we did not have any local pilot until two years
29 previously and that when we did supply pilotage it
30 was only after discussion with the Department of



1 English

2 Transport and with the advice from the Department
3 that pilots qualified and experienced for handling
4 vessels in our specific port would not be supplied
5 by the Department as this was not a designated
6 pilotage area as of that time.

7 We reminded the Department that it was
8 with the greatest reluctance that the port undertook
9 this additional service. This was not a service
10 which we had originally contemplated would be a
11 port service, but were prepared to do so if it fell
12 upon us, as it did.

13 We then asked Mr. Booth what the
14 Department wished us to do. Mr. Booth stated that
15 it was the wish of the Department that we carry on
16 as we were doing, that the Department had no objection
17 of any kind to what we were doing. They thought it
18 was the proper procedure and that we were doing
19 the proper thing. The Department would have no
20 objection of any kind to our presenting our views
21 before the Royal Commission which at that time had
22 been announced, and setting forth our opinion that
23 there should be no compulsory pilotage and that any
24 arrangement for pilotage should be handled at the
25 local level.

26 We then wrote to Mr. Baldwin.

27 THE CHAIRMAN: That was in 1963?

28 THE WITNESS: 1962, sir.

29 THE CHAIRMAN: 1962.

30 THE WITNESS: In November of 1962, and



1 English

2 We wrote to Mr. Baldwin on November 13th, 1962,
3 confirming our discussion with Mr. Booth and stating:

4 "We have always objected to unnecessarily
5 making our port a compulsory pilotage area
6 to the advantage of lake pilots many of whom
7 have refused to take ships into this port.
8 We look forward to having the opportunity
9 of making our views known to the Royal
10 Commission."

11 I just wanted to put it on the record,
12 sir, that the Department is aware of our views and
13 our intention to make them known to you.

14 I am sorry, Mr. Estey.

15 MR. ESTEY: Q. I take it the advent
16 of the St. Lawrence Seaway has increased the ocean
17 tonnage handled in the port of Toronto, Mr. Griffith?

18 A. That is correct, sir.

19 Q. What would the general volume of ocean
20 tonnage be that is now coming through the port on
21 a normal basis?

22 A. For the last two years, sir, we have
23 handled over one million tons of direct overseas
24 shipping. In 1962 and in 1963, both years, we
25 exceeded one million tons. 1963 was a small
26 amount in excess of 1962.

27 We had a few problems in 1963 -- the
28 labour negotiations, threats of strike and, quite
29 frankly, Mr. Chairman, a very successful campaign by
30 the Province of Ontario to buy locally, to buy Ontario-



1 English

2 made goods. Our port is primarily an import port
3 because of the nature of the economy that we serve --
4 the heavy consumer, small manufacturing area.

5 MR. ESTEY: Mr. Chairman, those are
6 the questions which we thought would be of prime
7 concern to the Commission. I understand there are
8 those present who may wish to ask other questions
9 and I simply want to observe at this stage that we
10 have other men here to answer the detailed questions
11 of how we operate, navigational aids and the method
12 of putting the pilot on board and so on, so if my
13 learned friends would perhaps bear that in mind, it
14 would perhaps save time.

15 THE CHAIRMAN: All right. Should a
16 question be put on which you have another witness
17 more knowledgeable of the details, well just let them
18 know that there is another witness to that.

19 MR. ESTEY: Thank you, My Lord.

20 THE CHAIRMAN: Mr. Lalonde?

21
22 CROSS-EXAMINATION BY MR. LALONDE:

23 Q. Mr. Griffith, do you have any
24 maritime experience yourself?

25 A. No, sir.

26 Q. Could you give to the Commission the
27 names of the Commissioners, unless it is going to
28 be provided later on?

29 A. Mr. George A. Wilson, Chairman.

30 Q. What does he do in life? What is his



1 English

2 occupation?

3 A. Hotel owner.

4 Q. Hotel manager?

5 A. Hotel owner. Mr. J. Harry Addison,
6 Vice Chairman.

7 Q. Yes. Would you like to give the
8 profession in each instance?

9 A. Executive.

10 MR. ESTEY: A man of many interests.

11 THE WITNESS: Mr. H. G. Kimber,
12 Retired, Mr. James Stewart, Retired and Mr. Jenoves,
13 a labour representative -- not on the board, but
14 that is his position.

15 MR. LALONDE: Q. That makes five?

16 A. Yes.

17 Q. You referred to fringe benefits for
18 your employees. What is the percentage contribution
19 of the Harbour Commission to the pension fund?

20 A. It varies depending upon the age of
21 the employee. On an average it is 50%, but it does
22 vary.

23 Q. Yes, but is it not a percentage of
24 the total earnings of the employee? Is it on the
25 basis, for instance, of 13% and 6½ each or 10%?
26 What is it?

27 A. I believe it is. It was 11 and it
28 is now 5. It is actuarially adjusted every two years.

29 Q. Each party would pay five?

30 A. At the moment, yes. The arrangement



1 English

2 is that the employee pays 5% of the salary and the
3 Commissioners pay the balance that is required to
4 keep the fund actuarially sound. As I recall it
5 started off at seven, and because of age with younger
6 employees it is brought at the moment to five. In
7 the next actuary adjustment it will probably rise
8 again.

9 Q. Is that on the basis of the gross
10 salary?

11 A. Yes.

12 Q. Do you have any idea what is the cost
13 of the group life per man?

14 A. I will get it for you.

15 Q. Approximately?

16 A. Again it was adjusted. If I may, I
17 shall get that for you.

18 Q. When you referred to net salary was
19 this with the income tax deducted?

20 A. Yes. This is take-home pay.

21 THE CHAIRMAN: Even with the income
22 tax deduction being made?

23 THE WITNESS: Yes, sir. The net
24 salary given was the take-home pay.

25 MR. ESTEY: That was after the
26 deduction for tax, after the deduction for hospital
27 and after the deduction for pension. Mr. Griffith
28 said the cash take-home.

29 THE CHAIRMAN: The actual cheque
30 in the pocket?



1 English

2 MR. ESTEY: Yes.

3 THE WITNESS: Excuse me; on that
4 point, if you are interested, I will just take
5 one case of Captain Livingstone. In 1963 his
6 gross salary was \$10,200.00. His income tax was
7 \$1,117.55; pension \$510.00; O.H.A., Blue Cross
8 and PSI, \$95.00, round figures; group insurance
9 \$50.00.

10 I might say also -- perhaps I might
11 have misunderstood your question on pension -- the
12 pension scheme, the pension arrangement is that
13 each employee receive 2% of his gross salary for
14 each year worked.

15 MR. LALONDE: As benefits later on?

16 A. As benefits later on. \$10,000.00 --
17 that would be after the end of one year, the
18 employee has a pension of \$200.00 a year. He pays
19 5% of his salary towards that. The Commissioners
20 pay the balance to make that actuarially sound.

21 THE CHAIRMAN: May I interject here?
22 When you talk of one year, is that one calendar year
23 or twelve months' employment?

24 THE WITNESS: Twelve months' employ-
25 ment.

26 THE CHAIRMAN: Is he employed twelve
27 months per year or eight months per year?

28 THE WITNESS: In this case, sir,
29 -- and this is why I read from the letter to Captain
30 Livingstone -- the arrangements were that while they



1 English

2 were only working eight months (with time off it
3 might take them to ten months) the fringe benefits
4 were on the basis of the salary being paid for a full
5 year. Whatever salary he had would be for a full
6 year. Therefore his deductions would be on that
7 basis for pension and so on.

8 MR. LALONDE: Q. Actually then your
9 men are remunerated and the fringe benefits are
10 paid on the basis of twelve months' employment?

11 A. Yes, as though they worked twelve
12 months.

13 Q. In effect are they relieved when the
14 season of navigation ends?

15 A. Yes.

16 Q. And they start working around the
17 middle of March?

18 A. No; it would be the middle of April,
19 sir.

20 Q. Do you include in the fringe benefits
21 the extra time they earn by working overtime?

22 A. No.

23 Q. You do not include that?

24 A. No.

25 Q. You do not consider this as overtime?

26 A. They get lieu time for that but it is
27 not included in the fringe benefits I referred to.

28 Q. When you say they get lieu time -- at
29 the end of the season, I think you said?

30 A. That is correct.



English

Q. Does this mean they get some remuneration for that -- they are paid as if they had worked an extra day during the year, as if they had worked 366 days or 367 days; is that it?

A. That is right.

Q. Do you include in the fringe benefits the ten working days' vacation?

A. Oh, yes.

Q. On this basis I would suggest that your figure of 35¢ an hour is too low as the figure being given for the fringe benefits, with regard to these employees anyway.

A. I am sorry; you are quite correct, sir. The 35¢ figure which we use as a general one was arrived at in connection with benefits which are not normally obtained in certain industries, for example the construction industry, and there is a Vacation With Pay Act which applied to that. I am sorry, you are quite right. The vacation is not included in that 35¢.

Q. Even if it is not included in the 35¢, I would suggest that probably due to the higher earnings bracket of your pilots here compared to your general employees the 35¢ an hour would be still high?

A. You mean low, sir?

Q. Low.

A. Yes. I can get, if you wish, the exact amounts paid. Some of these though have to be estimated. I mean, what is a sick bank worth? We can only take it



1 English

2 on an average. How much do you pay out for 300 employees?

3 What do you average for sick bank? We do not know

4 whether the Captain for example (Heaven forbid) would

5 take sick tomorrow and when the sick bank might be

6 carried forth.

7 Q. I think 40 hours a week at 35¢ is
8 \$14.00?

9 A. Yes.

10 Q. Even for 50 weeks during the year ----

11 A. \$700.00.

12 Q. That is \$700.00. I suggest it might
13 be a little bit low.

14 A. It could be. The pension payments
15 would be higher; Blue Cross, the PSI would not. I
16 would have to have a complete breakdown made if you
17 wish it; I am sorry. I was only using that as an
18 amount arrived at independent of this for an average
19 employee.

20 Q. That is all right. I understand
21 the charge for pilotage in Toronto harbour by the local
22 pilot is \$25.00 for a move?

23 A. Correct, sir.

24 Q. And that the total revenue, let us say,
25 for 1963 was \$21,675.00. Have you ever made any
26 calculation as to whether you were breaking even with
27 your pilotage operation or you were operating at some
28 deficit?

29

30



1 A. Yes, sir. In 1962 the total receipts
2 when we deducted from them our total cash payments to
3 the pilots, which includes the cash fringe benefits
4 but not the intangible ones like sick benefits, we had
5 a low profit.

6 In 1963 we had almost an equivalent
7 loss.

8 Now, this is a cash position, Mr.
9 Chairman. This does not take into consideration the
10 office, telephone, the stenographical staff. This
11 is straight cash in and cash out.

12 The position of the Commissioners was
13 that if they were to engage in voluntary pilotage then
14 they would be satisfied if it stood on its own feet on a
15 cash basis, not a cost accounting basis. In other words,
16 this was to be provided as a service. This was not a
17 revenue producer.

18 This is another thing which has come to
19 us also. We have been accused by our friends in the
20 States of wanting this because it makes money. This is
21 what we have been told by the Department, we want it
22 because it is a money-maker. This is so far from the
23 truth. This is not a money-maker.

24 Q. I suppose there is some expense for a
25 pilot out?

26 A. That is paid by the line, by the shipping
27 line over and above our charges.

28 Q. Is it operated by yourself?

29 A. No, private enterprise.

30 Q. Then you incur no cost in that respect?



1 A. No, sir. Occasionally we have had a
2 harbour police boat out because of an emergency. This
3 is charged by the harbour police, which we operate at
4 the cost of the city.

5 Q. Have you made a calculation of what your
6 overhead cost was generally?

7 A. We usually make a ten per cent charge,
8 sir, usually. However, to be fair I must admit the
9 city makes a twenty-five per cent charge.

10 Q. This charge you have made, I understand,
11 was made on a straight ---

12 A. Cost.

13 Q. My question was rather this charge was
14 not made subsequent to a detailed analysis of what your
15 overhead cost would be in effect?

16 A. Well, where we put the charge into
17 effect is wherever we are doing jobs or work for outside
18 industry and we have an engineering charge and it
19 usually requires services of the engineering staff and
20 design staff. Then we have an administration charge.
21 Those have been worked out and they are based on a total
22 cost of salaries and materials when we arrive at them.
23 Actually we have the famous ten and ten, ten engineering
24 and ten administration. If there is no engineering
25 it is straight ten for administration.

26 Q. When you say the city charges 25 per
27 cent this is their own calculation?

28 A. Yes.

29 Q. It is the City of Toronto you are refer-
30 ring to?



1 A. Yes. We have paid the 25 per cent
2 administration charge.

3 Q. Now I notice that in Exhibit 1115 for
4 1963 you have some 211 cases where local pilots were
5 employed while lake pilots were on board a vessel.
6 Would you know whether these instances occurred at the
7 request of the lake pilots or whether they occurred on
8 the instruction of the local agents?

9 A. I think perhaps, sir, the harbour master
10 would be in a better position. I can only say my advice
11 is in almost all cases since the fall of 1962 it has
12 been at the instruction of the agent or master. That
13 is the price given me by my staff.

14 Q. You refer in your evidence to a \$50
15 charge for moveage in Toronto by lake pilots?

16 A. Yes, sir.

17 Q. How did you hear about this? Who told
18 you so?

19 A. Mr. Cumming told me twice.

20 THE CHAIRMAN: Were you informed afterwards
21 or before?

22 THE WITNESS: I am sorry, I didn't get that.

23 THE CHAIRMAN: Were you informed before the
24 charge was passed into regulation?

25 THE WITNESS: No, this has not been a
26 regulation. The present charge is \$25 but we have been
27 informed that the American authorities have demanded of
28 the Canadian authorities that these charges be \$50
29 and they have demanded that control over the charges
30 made by the Toronto Harbour Commission and we not be



1 permitted to set any rate of our own. I believe, sir,
2 that there are regulations now being studied in the
3 United States for a public hearing in Detroit in a week
4 or so, which if passed would outlaw any such organiza-
5 tion as we have and our right to make any contractual
6 charges, this again emanating from the American authori-
7 ties.

8 MR. LALONDE:

9 Q. You are aware no doubt of the inter-
10 national agreement between Canada and the United States,
11 are you?

12 A. I have been told of its existence and
13 I have been told that anything that is discussed, that
14 is stopped or blocked because of American interpretation,
15 which I gather over a period of the past year has been
16 subject to some change.

17 Q. And did you ever care to check on the
18 American side or with the American authorities what
19 their view were in that respect?

20 A. That is not our right, sir. We, as
21 Captain Morgan said yesterday, we are emanations of the
22 Crown of Canada. We report to the Minister of Transport
23 and we are not permitted in any way to have any dealings,
24 negotiations, or discussions with the American government
25 or its representatives without permission. I at one
26 time, I must admit rather facetiously, asked if I could
27 and was told it was not my affair, quite properly so.

28 Q. Is your Harbour a member of the Inter-
29 national Great Lakes Port Association?

30 A. Yes, sir.



1 Q. I understand you are discussing and
2 meeting with American harbour officials in these meetings,
3 I presume?

4 A. That is correct. However, the
5 American ports deal with American matters and the
6 Canadian ports deal with Canadian matters.

7 Q. These international meetings, I presume,
8 deal with common problems?

9 A. That is correct.

10 Q. You don't have to ask Ottawa's permis-
11 sion to go to these meetings, do you?

12 A. I might be afraid to! No, sir, we do
13 not.

14 Q. I think you referred in your evidence,
15 at least in your brief, to attacks by lake pilots against
16 local pilots. What do you mean? What do you mean
17 by this?

18 A. Verbal attacks. That we have been
19 told by Ottawa that there have been complaints against
20 us and that these were used in order to get regulations
21 passed, and that our local pilots and our harbour
22 masters would not provide the ordinary amenity to
23 them, which is an absolute complete and total falsehood.

24 If you are interested I am sure the
25 Harbour Master would be glad to tell you of the tremen-
26 dous imposition made by the pilots on the Harbour
27 Master's staff and the request for services which have
28 up to the present time been made. Then we are told,
29 we are advised that we have refused to even meet the
30 ordinary amenities. This is one of the reasons why



1 regulations have to be passed so the poor lake pilots
2 can get an extra \$25 to pay for taxis to Port Weller.
3 That is the information we are given from Ottawa. We
4 are told our people break the law. Our relationship
5 with Ottawa has deteriorated as a result of this. It
6 is a matter of grave concern to the Commissioners that
7 this type of thing can be even given consideration with-
8 out checking.

9 THE CHAIRMAN: Were you ever called to
10 Ottawa to meet the other parties to discuss that and hear
11 their side?

12 THE WITNESS: No, sir.

13 THE CHAIRMAN: And given the opportunity to
14 give your side of the story also?

15 THE WITNESS: No, sir.

16 MR. LALONDE:

17 Q. Now you said, I think, that the cargo
18 for 1962 and 1963 was slightly above a million tons?

19 A. That is correct, sir.

20 Q. Is that cargo all inland and deep sea?

21 A. Direct overseas shipping only, sir.

22 Q. That is both ways, in and out?

23 A. Yes, that is correct. We haven't dealt
24 with lake shipping aspects as there are no pilots to my
25 knowledge, never been a pilot or a pilot problem in
26 connection with lake shipping.

27 Q. I presume the Harbour Master would be
28 the person most qualified to explain the situation as
29 to the system of harbour control which was established?

30 MR. ESTEY: We will deal with that.



1 MR. LALONDE: Thank you.

2 MR. ESTEY: Perhaps Mr. Griffith would like
3 to deal with that.

4 THE WITNESS: You are asking for our cost
5 of group insurance. The group insurance is 37 cents
6 per thousand per month paid by the employee and the same
7 amount paid by the Commission. That is a total of
8 74 cents per thousand.

9 If you would like I can give you now
10 the breakdown on all of these, if you wish.

11 MR. LALONDE:

12 Q. Of the fringe benefits, yes.

13 A. Under the pension, under fifty years
14 of age -- this is under fifty years of age at joining
15 the plan, the employee pays 5 per cent of his salary
16 and over fifty years pays 10 per cent. At the moment
17 the Commission payment is 5.2 per cent. Blue Cross is
18 50 per cent by each. PSI is 50 per cent by each.

19 MR. JACQUES: What is PSI?

20 THE WITNESS: Physicians Services Incor-
21 porated, which prepays most medical doctors' expenses.
22 I say "most" because the doctor has to be a member of
23 the PSI, of which about 95 per cent of the doctors are.
24 There are some doctors who are not and then you only
25 get 75 per cent of the approved rate paid.

26 Workmen's Compensation, 50 cents per
27 \$100 per year paid by employer only. Ontario Hospital-
28 ization is 50 per cent. Of course Blue Cross and PSI
29 vary depending upon the status of the employee, depending
30 on single, married, with children, and so on.



1 MR. ESTEY:

2 Q. Mr. Lalonde asked a question which I
3 interrupted. I think it raised two issues. Captain
4 Mann is going to deal with technical matters of harbour
5 control but there is a policy matter you may wish to
6 examine about. If I may I will ask him.

7 In this question of control of traffic,
8 not ocean-going but other traffic in the harbour, I
9 believe the Commissioners studied this matter at some
10 length and instituted certain controls and certain
11 berthing facilities and some of these have been reclassi-
12 fied and some discontinued. You may wish to say a
13 word on what you have done in this connection. I am
14 speaking of radio control and the berthing master.

15 A. In 1960, the year after the opening of
16 the new St. Lawrence canals, we instituted a berthing
17 master system, and as I believe I mentioned earlier we
18 attempted to give some teeth to this system through our
19 bylaw which we eventually withdrew. It was an experi-
20 mental service. We did not know whether or not it
21 would be actually required in our port.

22 We put it in primarily as a service to
23 the ocean shipping because the lake masters had been
24 coming in and out of the port of Toronto for many years
25 and did not require this service. We wondered if with
26 the increase in the number of ocean ships, if with the
27 voluntary pilotage system whereby an ocean ship did not
28 require to have somebody conversant with the local
29 area on board, if a rigid system of control by radio
30 might not be desirable. Rather than deal in theory we



1 went into it in practice and instituted it. We
2 continued it through until 1963. We reviewed it last
3 year and in our opinion we had great doubts as to the
4 necessity for such a control.

5 I would like to point out we had no
6 legal authority to enforce the radio commands of the
7 berthing master. In fact one of the lake pilots just
8 refused to pay any attention and backed out and almost
9 collided with a ship that was going up and which the
10 lake pilot had been told of and told he should not back
11 out. Yet we found we did have no authority to lay
12 charges in connection with that because it had been
13 deleted from our bylaw before we withdrew it.

14 We found that we had placed, par-
15 ticularly over the past year of study, we found we had
16 placed an unnecessary strict control over the ships'
17 movements. We found that this system presented some
18 desirable aspects from a voluntary point of view which
19 could be carried out otherwise than through a berthing
20 master.

21
22 -

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We found it was being^{used}/a lot from time to time by lake pilots. I have been informed that on occasion a lake pilot has in effect asked the berthing master to berth him, tell him how to come in, but the Harbour Master will go into further detail if you are interested.

However, with harbour pilots available, with the lake pilots we have been promised that they would eventually learn their business and become qualified. We do not feel they have yet, but that is really immaterial to our submission. Our problem is not individuals at the moment, Mr. Chairman. Our problem is the wrong principle that is being enforced, and these are simply by-products of the application of a wrong principle.

The Commissioners decided to withdraw the berthing master system. We still will have radio communications through harbour police with the ships. The harbour police will now be in charge of that radio. They have their own radio system, and have it in connection with their own police boats, so the same man will be doing both. He can give information, if there is a safety factor involved, he can give it. He will have radar there, but he will not berth the ships. He will not tell them how to berth. He will not control from the basis that you can't enter the port until you have cleared with us. The ships will be able to come in. They will be watched coming in on the radar of the harbour police. We have removed this control system completely.



1 We have found that it was an unnecessary
2 and costly service put in in the best of faith because
3 we did not know what the circumstances would be. We
4 have found we don't need it.

5 MR. ESTEY: Thank you, Mr. Griffith. I
6 would like to move now to a more detailed examination --
7 I am sorry.

8 THE CHAIRMAN: There are two more.

9
10 CROSS-EXAMINATION BY MR. BRISSET:

11 Q. You were kind enough to give us a
12 few figures on statistics, for instance, on ships coming
13 in every year. I am wondering whether I can impose on
14 you and ask you to file these statistics as an exhibit.

15 A. What statistics, sir. I am sorry.

16 Q. The number of ships that came in in
17 1960, 1961 ---

18 MR. ESTEY: That was all one exhibit.

19 THE WITNESS: There were about five or six
20 sheets to that one exhibit, sir. I believe the only
21 figures, if I recall, that I have been giving are the
22 salaries and fringe benefits and so on.

23 Q. Mr. Griffith, you referred to your
24 discussions in 1958 with the Shipping Federation of
25 Canada and the matter of instituting a pilotage system
26 in the harbour of Toronto was taken up with you. Would
27 it be fair to say to you, Mr. Griffith, that the system
28 that was eventually put into effect and the views which
29 you have expressed before this Commission are pretty
30 much in line with the recommendations made to you at the



1 English

2 time by the Shipping Federation of Canada?

3 A. By coincidence only, sir.

4 Q. In other words, there has been no dif-
5 ference of views between your Commission and the shipping
6 interests directly concerned with the problem? If
7 there has been I would like to be told.

8 A. Well, we have from time to time been
9 very much confused as to the views of the shipping
10 people on certain matters. We have received advice
11 over the past three or four days of a conflicting
12 nature in connection with the attitude of the Shipping
13 Federation on increased rates and so on.

14 Certainly while we are very anxious to
15 give service and to give proper service to the ships
16 that are coming into our port, and we attempt to work as
17 closely as possible with those representing the ships,
18 I would not say we had adopted in any way any recommen-
19 dation of the Shipping Federation on any matter. In
20 fact we sometimes appear to be in conflict with the
21 Federation from time to time on matters.

22 Q. On many matters I am sure, Mr. Griffith.

23 A. Right, sir.

24 Q. But perhaps there has been more agree-
25 ment on matters of pilotage than any other matters. By
26 coincidence purely, I concede to you.

27 A. It is our understanding that the
28 shipping industry as represented in Toronto has been
29 satisfied and happy with the service that we have pro-
30 vided, and feels that it properly meets the needs. It



1 is my understanding that there will be a witness repre-
2 senting the Toronto group.

3 In so far as the views of the Shipping
4 Federation are concerned, we did receive an opinion
5 from them in 1958. Other than asking Captain Matheson
6 about two weeks ago as to what the opinion of the
7 Federation now was on the general pilotage matter, if
8 it was to be public knowledge and not confidential,
9 I have had no further information.

10 Q. You have spoken of shipping agents in
11 your city and port being satisfied with the services
12 which you had organized, and I would now like to ask
13 about the two pilots you have in your employment.

14 It has been many times said here before
15 this Commission that pilots were unhappy with their con-
16 ditions, and I would like to know what is the situation
17 in the Harbour of Toronto. Can it be said that the
18 pilots that you have, the two pilots, are satisfied
19 with their conditions?

20 A. No, sir, they are not.

21 Q. In what respect?

22 A. The two pilots are most unhappy with
23 their conditions.

24 Q. In what respect?

25 A. Because it is impossible to get any
26 answer to the question as to whether or not they will be
27 gainfully employed tomorrow.

28 Q. In other words, it is the lack of
29 security that is their main ---

30 A. Absolutely.



1 Q. The main cause of concern?

2 A. They have been told by the lake pilots
3 they are going to be driven out of the lakes. They are
4 going to be got. They are going to be got rid of.
5 They have asked their connections in Ottawa "Are we going
6 to be permitted to continue or are we going to be legis-
7 lated out of business?" They have been advised it
8 might be wise to move out.

9 They are most unhappy because they
10 don't know where they stand. Captain Livingstone
11 came to me two weeks ago, two to three weeks ago.
12 He is in charge of the navigation school and has been
13 for about nineteen years. The Department of Transport
14 I understand pays about 75 per cent of the cost. He
15 has been in charge of it for approximately nineteen years.
16 There was an opportunity of a permanent position with
17 them. He wants to remain as a pilot. It is his love.
18 It is his work.

19 He said to me "Can you, Mr. Griffith,
20 give me any assurance at any time that I won't be out
21 of a job tomorrow, the end of June, at the end of the
22 season?"

23 I said "Captain Livingstone, I can give
24 you no assurance. I don't know what is going on. All
25 I know is that any time we talk to anybody, it is some
26 guy in Washington who won't let anything happen. We
27 apparently don't have any control over what happens
28 in Canadian ports as far as I can find out. I can give
29 you no assurance, except one, if you start in April,
30 we will carry you through and pay your salary even if



1 we are at some time during the season, even if we do
2 have suddenly something slapped on us without notice.
3 At the end of the season, if that happens, there is no
4 job."

5 No, sir, they are not happy, and we are
6 not happy.

7 Q. Now, Mr. Griffith, you have referred
8 to the Great Lakes Ports Association. During the
9 meetings or discussions with the members of that
10 Association, have you been able to determine whether
11 the same problems exist in American ports in so far
12 as instituting a port pilotage system is concerned as
13 you have here?

14 A. All that I know, sir, is that there is
15 to my knowledge no port pilotage system in existence
16 anywhere else other than in Toronto and Hamilton, and
17 that there is amongst the port people a very great
18 discontent with the manner in which pilotage is being
19 handled on the Great Lakes.

20 Q. And that applies also to the ports on
21 the American side?

22 A. That is what I am speaking of, sir.

23 Q. So far as you know none of them have
24 been able to institute in their own port a pilotage
25 system to serve the ships going there under the special
26 conditions that may exist in many of these ports?

27 A. I can't answer that. You have said
28 "are able to". I don't know whether they have been
29 able to or unable to; whether they have not wished
30 because of the same problems as ours, I don't know.



1 All I know is they don't have it.

2 Q. Mr. Griffith, I notice in 1962 in the
3 statistics which you have given us, there were 2,008
4 ships, ocean ships, in and out, while there were 1,015
5 services rendered. Does that give a fair idea of the
6 number of times a ship would use a pilot?

7 In other words, what I am driving at
8 is this: A regular trader coming into the port, for
9 instance, might use one of the harbour pilots one day,
10 and on his next trip might not use him depending on
11 weather conditions? Is that something that is happening?

12 A. That can happen, yes. The Harbour
13 Master would be in a far better position to give you
14 any detail in connection with that.

15 CROSS-EXAMINATION BY MR. JACQUES:
16

17 Q. Would it be a fair statement to say
18 that at first you were reluctant to engage in pilotage
19 business? Is that correct?

20 A. That is correct, sir.

21 Q. Would it be a fair statement to say
22 that now you are of the opinion that you should retain
23 control over pilots in the harbour?

24 A. I didn't say that, sir. I said they
25 should be under local control. It does not necessarily
26 have to be the Toronto Harbour Commissioners. If the
27 Department of Transport wishes to set up some system in
28 Toronto of voluntary pilot system that we have mentioned,
29 and to have pilots located in Toronto, available for
30 the ships when they are coming into Toronto, and trained



1 English

2 in Toronto, we wouldn't say that we had to operate it.

3 THE CHAIRMAN: I know at the present time
4 at the Lakehead, they have one or two pilots always
5 stationed there.

6 THE WITNESS: Yes.

7 THE CHAIRMAN: So is that satisfactory?

8 THE WITNESS: No, sir, because that then
9 means introduction of compulsory pilotage in effect.
10 We are into the stages leading to compulsory pilotage
11 the same as we have in the interpretations that are
12 attempted, I am told, of these regulations, that if a
13 lake pilot is on board a ship when the ship docks, he
14 gets paid even if he is asleep in his bunk. I am
15 told this is the interpretation -- I am told by
16 Ottawa -- that the Americans put on the section.

17 The whole trend is to increase pay
18 and compulsory payments for all of these lake pilots.
19 This is what we are opposed to, sir, for any pilot.
20 Whether it be lake or local.

21 BY MR. JACQUES:

22 Q. And the opinion of your Commissioners is
23 that Toronto is such a port that there is no need for
24 compulsory pilotage?

25 A. That is correct, sir.

26 THE CHAIRMAN: It is a safe port?

27 THE WITNESS: It is a safe port, and an
28 easy port in which to navigate.

29 Q. Now, have you considered the possibility
30 of a ship grounding at the entrance or in the course of



1 English

2 entering the west channel?

3 A. In what way, sir?

4 Q. Would you turn around and look at the
5 chart?

6 A. Yes.

7 Q. There are two entrances to Toronto, one,
8 the Eastern and one, Western. Now, I am given to under-
9 stand that the Western entrance is used for deep sea
10 traffic; is that correct?

11 A. That is correct.

12 Q. What would be the consequences of a
13 grounding in the entrance?

14 A. Well, how would he ground when there is
15 more water than the ship draws? There is a clear chan-
16 nel right straight through here. Any grounding that
17 would take place would take place off the channel, and
18 therefore would not block it.

19 Q. So there is no possibility of grounding
20 in the Western entrance?

21 A. Would you be good enough to ask that
22 question of those who are really more qualified than I,
23 sir. My answer would be in the channel itself, at the
24 depth of water, no, but I would much prefer that those
25 who have marine experience answer.

26 THE CHAIRMAN: I think our counsel is
27 thinking that the sinking of a ship would block the
28 entrance, and as a safety measure whether in a case like
29 that it would be advisable to have compulsory pilotage
30 to certain types of ships that are inexperienced in the



1 English

2 channel. I think that is what he is leading to.

3 THE WITNESS: I do not believe, sir, that the
4 possibility of such a thing happening has in any way been
5 lessened by the introduction of lake pilots.

6 BY MR. JACQUES:

7 Q. You feel that the safety of the harbour
8 installations is adequately ensured through a voluntary
9 system of pilotage?

10 A. We do, sir.

11 Q. Have you made any particular studies of
12 that problem? Not you personally, but the Commissioners
13 or the experts?

14 A. Yes, certainly in arriving at de-
15 cisions in connection with berthing masters, the
16 removal of the system, voluntary pilotage system, we
17 studied the movement of the ships, qualifications of
18 the people on the ships, the responsibility shown by
19 the master of a ship. There is no doubt in our mind
20 that the master of a ship is the last person who wants
21 an accident or anything to happen.

22 Q. So you rely on the common sense of
23 the master to request or not to request a pilot depend-
24 ing upon circumstances?

25 A. Our experience has been that we can
26 rely on that common sense, yes, sir. To my knowledge
27 in every case where there is any doubt in connection
28 with the ship riding high, due to having no cargo, the
29 wind conditions, the weather conditions, to my know-
30 ledge on all occasions the ship's master wants and has



1 English

2 asked for a local pilot to assist him.

3 Q. Now, as regards casualties in the
4 Harbour of Toronto, I believe another witness will give
5 evidence?

6 A. That is correct.

7 Q. You said that in 1962 a second pilot
8 was hired, and you also mentioned that Captain Mann
9 and one other of your employees could be used in emer-
10 gencies. Were they in fact used?

11 A. Yes, sir. I believe they are shown
12 on the list we submitted. In 1961 Captain Mann did
13 101 pilotages. Captain Livingstone did 703. Those
14 101 were done during the very busy period.

15 In 1962 Captain Mann did 15 and
16 Captain Mumford did one. In 1963 Captain Mann didn't
17 do any, and Captain Mumford did one.

18 Q. Were you at any time consulted by the
19 Department of Transport with respect to changes in
20 regulations attributable to pilotage on the Great Lakes?

21 A. I believe Mr. Booth once sent us
22 down a copy of the Hansard in connection with the
23 committee discussions on pilotage. I believe we had
24 that. It is a very difficult question to answer, sir,
25 because we have had so many conversations with the
26 various officials of the Department from time to time,
27 but unfortunately have been unable to come to any answer
28 to the problem or have any indication as to where the
29 final answer will be. Again, I am sorry to keep re-
30 peating this, but it always seems to centre on what is



1 English

2 going to be said or done in Washington.

3 Q. Do you look after the aids to naviga-
4 tion in the harbour?

5 A. To a limited degree we do, sir, yes.
6 The Department of Transport also handles certain aids
7 to navigation. The details of that could be supplied
8 by the Harbour Master.

9 Q. As a matter of policy was that policy
10 established by your Commissioners or is it something
11 that just grew out of practice?

12 A. All I can say, sir, is that it was a
13 practice twenty-four years ago when I came to the Board.
14 I do not know beyond that.

15 Q. When you experimented with the harbour
16 control was there a provision whereby a master could
17 obtain information concerning traffic inside the con-
18 fines of the harbour or changes in aids to navigation
19 prior to entering?

20 A. Yes.

21 Q. Is that service still available?

22 A. Yes, sir. What we have done is re-
23 moved the berthing masters, the actual control of the
24 ship within the port, nothing from the point of view of
25 operations or from the point of view of safety.

26 Q. Would you be competent to give us the
27 details of the qualifications of your pilots and the
28 way they were recruited?

29 A. I could, but I would rather that the
30 detail be given by the Harbour Master.



1 English

2 Q. Thank you. Is there a tug service
3 available in Toronto?

4 A. Yes, sir.

5 Q. Is that operated by the Commissioners?

6 A. We do have a tug which we will make
7 available but we do not in the direct sense of the word
8 operate a tug service. It is operated by the same man,
9 a Captain Scott of Waterman Services who provides the
10 pilot boat. He also takes the lines. He also collects
11 the garbage.

12 Captain Scott has told me that with
13 the present trend, with the decreased use of his pilot
14 boat, with the chance that there may be even a further
15 decrease in the use of his pilot boat or a complete
16 removal of it if these regulations provided by the
17 Americans do go through, as I understand them and as he
18 understands them, then he does not see how he can
19 continue to provide these other services, because it
20 has taken him a long time to get on a financially sound
21 basis of providing half a dozen different services to
22 the ships. He cannot keep a tug sitting around for
23 the few times that it is going to be required on its
24 own.

25 The taking of lines and the collection
26 of garbage; there are many services which are carried
27 out by private enterprise, including the provision of
28 a pilot boat. If he loses some of his revenue-producers,
29 of which the pilot boat charge is one, then he may have
30 to withdraw from some of the loss services that he is



1 English

2 providing to the same ship when it is in port.

3 Q. Would you tell the Commission whether
4 the lake pilots or the masters doing their own handling
5 employ tugs more frequently than, let us say, the local
6 pilots?

7 A. It is my understanding -- but this I
8 would wish to have confirmed by the Harbour Master when
9 he is addressing you, sir -- it is my understanding that
10 the local pilots are more inclined to use the tugs when
11 they are needed in order to expedite the movement of the
12 ship than the lake pilots are.

13 Q. During the course of the navigation
14 season are your pilots -- I do not mean the two captains
15 used in cases of emergency but the two pilots -- em-
16 ployed otherwise than as pilots? Do they do anything
17 else?

18 A. I am sorry. May I have the question
19 again? Did you say other than Livingstone and
20 Robinson?

21 A. No.

22 Q. Captain Livingstone runs this navigation
23 school that I referred to earlier. I do not know what
24 Captain Robinson does. I believe that he does not
25 engage in any other job.

26 MR. JACQUES: Thank you.

27 COMMISSIONER SMITH: My Lord, with this
28 delay perhaps I could ask a couple of questions.

29 I understand from reading your Act
30 thoroughly that you make an annual report to the City of



1 English

2 Toronto but to the Government at Ottawa the annual
3 report is only (correct me if I am wrong) on the
4 financial aspect. You are not required to report
5 anything to Ottawa except the financial set-up and
6 operation for the year; is that correct?

7 THE WITNESS: I believe that is a correct
8 interpretation of the statute, sir. We however supply
9 Ottawa with a copy of our report to the City.

10 COMMISSIONER SMITH: Yes. I have one
11 other question. Somewhere there is a section prohibit-
12 ing the alienation of Crown property unless consent is
13 obtained by Governor-in-Council.

14 THE WITNESS: Yes, sir.

15 COMMISSIONER SMITH: If consent is obtained
16 from the Governor-in-Council and Crown property is
17 alienated what happens to the funds, the money received
18 for the sale of that property? Where does that go?

19 THE WITNESS: They become part of the
20 capital funds of the Commission, sir. Up to the pre-
21 sent time and for some time to come they would be applied
22 either in new facilities required for the area or in
23 the payment of existing debts through bonds. We
24 still have some of our original bond issue outstanding.
25 I say "original"; it has been refinanced but it is
26 from the original.

27 There was just one statement -- and
28 I hope Mr. Estey will forgive me -- that he has made
29 which I would like to clarify, if I may. It is true
30 that the Federal Government does do a capital works --



1 English

2 for example dredging in the Port of Toronto, as it does
3 in almost all the other ports.

4 COMMISSIONER SMITH: Do they dredge the
5 slips as well as the channel?

6 THE WITNESS: No. It is capital dredging
7 only, sir, as well, not maintenance. They basically
8 dredged the Port of Toronto to Seaway depth. We did
9 it in certain slips and certain areas. They did it
10 in other slips where we were operating terminals.

11 The government does do that and our
12 profits or surplus are payable to the city. In actual
13 fact there has been very little surplus over fifty
14 years of operation. There was one misunderstanding
15 of the Section in connection with the capital surplus
16 that was eventually clarified and payment was made.

17 The net position of the City of
18 Toronto in connection with their port is that it has
19 placed approximately \$17 million cash in the port through
20 its guarantee of the Commissioners' bonds as to
21 capital and interest and in the payments that they have
22 made. This is without interest on the advances from
23 the City. This is without interest.

24 So while it might appear that the
25 Federal Government would put a capital asset in the
26 port and the profit would go to the City, in actual
27 fact over fifty years the City has invested over and
28 above what the Federal Government has put in approxi-
29 mately \$17 million. I would just like to make that
30 clear.



1 English

2 COMMISSIONER SMITH: I have one final
3 question. Does the Federal Government -- have they
4 or do they spend Federal Government money to provide
5 installations on the Toronto Harbour front?

6 THE WITNESS: The general policy, sir, of
7 the Federal Government is that it will put this money
8 into or it will create non-revenue producing assets.
9 This is basically the principle.

10 As I understand the policy that has
11 been in existence for the last seven or eight or nine
12 years, shall we say, of the Federal Government, they
13 will assist a port to get started. They will assist
14 a port to get over a financial hump and then they expect
15 the port to stand basically on its own feet. They will
16 do such things as dredging, breakwaters, and so on, or
17 making a percentage contribution towards a project.

18 For example, within this period of
19 time the Federal Government built at its own cost the
20 new facilities at the Lakehead -- the dock, the ter-
21 minals and so on. That was fully at the expense of
22 the Federal Government and handed over to the local
23 Commission. But that was a local Commission just
24 formed. It had no assets; it had no way of making
25 money, nothing other than perhaps an application of
26 some harbour dues or something like that -- no way of
27 getting on its feet.

28 In the same period the Federal Govern-
29 ment made a proportionate contribution -- I believe
30 better than fifty per cent -- in connection with part of



1 English

2 Hamilton's re-development. In Toronto they did the
3 dredging and 25 per cent of the dock wall. It ended up
4 in fact that the Federal Government did less than 20
5 per cent of a major project, the basis being that
6 Toronto of all the ports they were looking at was in
7 the strongest financial position and required the least
8 assistance.

9 Obviously no port will agree with that
10 opinion, but this is the basis on which they were
11 working it out, the general principle being that
12 eventually all these ports will be self-sufficient and
13 not require government aid other than of a navigation
14 capital dredging of channels type. This is the objec-
15 tive.

16 COMMISSIONER SMITH: Whatever federal
17 money is spent to improve the harbour facilities or
18 anything connected with the operation of the harbour,
19 that is written off?

20 THE WITNESS: Yes.

21 COMMISSIONER SMITH: Thank you.

22 MR. JACQUES:

23 Q. I have one last question for the sake
24 of the clarity of the record. Whenever you used the
25 expression "lake pilots" did you mean only lake pilots
26 proper or lake pilots and District 1 and District 2
27 pilots which might take ships into the lake?

28 A. No, sir; I was referring only to lake
29 pilots proper.

30 Q. The six pilots licensed strictly for



1 English

2 Lake Ontario?

3 A. That is correct.

4
5 FURTHER CROSS-EXAMINATION BY MR. LALONDE:

6 Q. May I ask a few questions more?

7 I refer you to Exhibit 1115, the page
8 on which you have the total number of occasions on which
9 vessels have employed your harbour pilots for the
10 seasons ending 1962 and 1963. Let us take 1963.
11 You state: "Our pilots employed on vessels with B
12 certificates, 1963, 594." And then: "Our pilots
13 employed on vessels without B certificates but with
14 lake pilots on board, 1963, 211."

15 Do you know how you assessed whether a
16 B certificate was on board or not? Did you conclude
17 that if there was a lake pilot on board this was a
18 vessel without a B certificate and all others were to
19 be considered as B certificates?

20 A. No, sir. In view of the statements
21 made to us that we were in effect trying to grab off
22 all pilotage, that we did not pay any attention to the
23 regulations, with a notice from Ottawa as to the fines
24 that would be levied for our terrible actions, I
25 double-checked and I am assured -- and I think you can
26 get this from the Harbour Master -- that on no occasion
27 is a ship boarded where they do not know that there is
28 a lake pilot on board, that they do not inquire that
29 there is a B certificate.

30 In other words if a ship comes in



1 English

2 without a lake pilot before our pilot takes over the
3 master or officer in charge of the ship has to state
4 that there is an officer on board with a Class B
5 certificate.

6 Q. I see. But if there is a lake pilot
7 on board I presume you do not check then whether there
8 is a B certificate?

9 A. No.

10 Q. You do not check?

11 A. No.

12 Q. Therefore the last statement which
13 appeared in Exhibit 1115 may not be quite correct be-
14 cause you state: "Our pilots employed on vessels
15 without B certificates but with lake pilots on board."
16 Are you aware there are instances where there are
17 vessels with B certificates on board and nevertheless
18 they employ lake pilots?

19 A. In each case they would be shown in
20 this group.

21 Q. In 211?

22 A. In 211, that is correct, sir. We have
23 assumed if there is a lake pilot on board there is no
24 B certificate.

25 Q. I see. These figures for 1962 and 1963,
26 would they be interpreted with this built-in assumption?

27 A. That is correct, sir. Problems some-
28 times arise, Mr. Chairman ---

29 THE CHAIRMAN: In order to just clarify
30 one point, am I right in saying that prior to the



1 English

2 opening of the Seaway there was absolutely no pilotage
3 system provided from the Harbour Board?

4 THE WITNESS: That is correct, sir.

5 THE CHAIRMAN: With the opening of the
6 Seaway you expected increased traffic, increased ocean-
7 going vessels here and with the advice of masters and
8 so on it was decided to provide the service that was
9 not otherwise provided?

10 THE WITNESS: Correct, sir.

11 THE CHAIRMAN: So therefore in 1961 prior
12 to the coming into force of the international agreement
13 you were urged or encouraged to institute your own
14 system?

15 THE WITNESS: Correct.

16 THE CHAIRMAN: And then a year after the
17 international agreement came into force?

18 THE WITNESS: Correct.

19 THE CHAIRMAN: In 1962 or 1963.

20 MR. LALONDE: The international agreement,
21 my Lord, was signed on May 5th, 1961.

22 THE CHAIRMAN: In any event when you were
23 urged and encouraged to organize your own system here
24 the international agreement had not been in force?

25 THE WITNESS: The regulations under that
26 agreement permitting the lake pilots to collect \$25
27 had not gone into effect.

28 THE CHAIRMAN: I see. It was enforced in
29 1962?

30 THE WITNESS: Yes.



1 English

2 COMMISSIONER SMITH: Before that who looked
3 after the pilotage in Toronto Harbour?

4 THE WITNESS: In 1960 it was done by
5 Captain Livingstone on direct arrangement with the
6 shipping companies. In 1959 I believe that those
7 ships who wished to have pilots would take them from
8 either the Kingston or Port Weller area. I know for
9 example Captain Robinson, who was the second pilot we
10 hired, had been on board the ocean ships coming into
11 the port previously, both independently and I believe
12 out of Port Weller. However, that can be brought out
13 in detail, sir.

14 COMMISSIONER SMITH: Backing up over the
15 years?

16 THE WITNESS: None that I know of.

17 COMMISSIONER SMITH: None?

18 THE WITNESS: That I know of.

19 MR. LALONDE:

20 Q. Were you not aware that you had the
21 practice of sailing masters joining ships at Kingston
22 and going all over the lakes?

23 A. That is right.

24 Q. You had them aboard?

25 A. That is correct.

26 THE CHAIRMAN: Thank you very much. We
27 will adjourn now.

28 THE WITNESS: Mr. Chairman, if I may . . .
29 I am sorry to keep you.

30 THE CHAIRMAN: It is quite allright.



1 English

2 THE WITNESS: There is one final remark
3 on behalf of the Toronto Harbour Commissioners that I
4 would like to make. Regardless of what consideration
5 you give to our submission, whether you agree with the
6 position that we have put forth or not, we ask you to
7 very seriously consider the wrong principle involved
8 in the matter of any control of any type over a lake
9 port being exercised outside of this country. We
10 are appalled at this and we ask that this be given
11 very serious consideration, that somebody outside of
12 this country can actually have a say as to what goes
13 on in connection with a matter under the jurisdiction
14 of a federal organization and that federal organization
15 is not even consulted. That principle, sir, we
16 suggest is wrong.

17 Thank you.

18 THE CHAIRMAN: Thank you. We will now
19 adjourn for ten minutes.

20 ---Short recess.
21
22
23
24
25
26
27
28
29
30



1 ---Upon resuming:

2
3 JOHN MICHAEL MANN, sworn

4 DIRECT EXAMINATION BY MR. ESTEY:

5 Q. Now, Captain Mann, you have already
6 said you are the Harbour Master of the Toronto Harbour
7 Commissioners. How long have you been employed by
8 the Commissioners?

9 A. Eleven years.

10 Q. When you first joined them what was your
11 appointment?

12 A. Deputy Harbour Master.

13 Q. Let me briefly go through with you your
14 experience in maritime affairs. When did you first go
15 to sea?

16 A. 1937, on completion of high school.

17 Q. And where was that? Where were you
18 based?

19 A. From the U.K. I served my apprentice-
20 ship from 1937 and completed it in 1941.

21 Q. And then what did you do after 1941?

22 A. O tained my second mate certificate,
23 sailor's third mate and second mate, obtained my mate's
24 certificate.

25 Q. Where were they issued?

26 A. All issued from Liverpool.

27 Q. At the Board of Trade?

28 A. Yes.

29 Q. Of the United Kingdom?

30 A. Yes.



1 Q. What did you do then?

2 A. I sailed second mate and mate until
3 I had sufficient time to sit for my master's certificate
4 and obtained that in 1946.

5 Q. During the war what did you do?

6 A. I served across the Atlantic and the
7 Far East and Mediterranean.

8 Q. In the Merchant Navy?

9 A. Yes.

10 Q. When did you first come to Toronto?

11 When did you first sail here?

12 A. I came to Toronto in April 1952.

13 Q. What were you aboard then?

14 A. I was the Chief Officer on the PIONEER
15 from Manchester.

16 Q. That, I take it, was one of the early
17 ocean vessels to sail into the Toronto Harbour regularly?

18 A. One of the small 250-footers, one of
19 the first direct services from the U.K. to Toronto.

20 Q. You joined the Harbour Commission service
21 in 1953?

22 A. April, 1953, yes.

23 Q. Before we get into the immediate
24 problem of pilotage in the Toronto Harbour what generally
25 are the duties of the Harbour Master in Toronto?

26 A. He is the marine adviser to the manage-
27 ment and responsible for the safe movement of vessels
28 using the port, and ensuring compliance with all bylaws
29 and regulations relating to the movement, navigation,
30 and behaviour of vessels whilst in the port.



1 Q. What does your staff consist of?

2 A. The complement of the Harbour Master's
3 Department consists of harbour master, deputy harbour
4 master, traffic clerk, secretary and two pilots.

5 Q. We will be referring to them again,
6 but who are they?

7 A. Captain Don Livingstone and Captain
8 Fred Robinson.

9 Q. And in the marine operations the Harbour
10 Commission Counsel asked some questions about navigation
11 aids. Perhaps we might dispose of that topic now.
12 What radio security have you in operation in the harbour?

13 A. We have two VHS-AM radio sets so we
14 can contact any ship.

15 Q. Any radar?

16 A. Yes, we have radar and we have tele-
17 type for communication between Sarnia and Montreal.

18 Q. Then we have heard mention made of the
19 Harbour Commission police. I take it they are not
20 directly under you?

21 A. No, but in the event we require their
22 services they are available at any time.

23 Q. They have their own radio facilities?

24 A. Yes, they do. They have their own
25 range.

26 Q. Perhaps we should at this point mention
27 this airport which is in the harbour here. They, of
28 course, have their own communication system?

29 A. They do, sir.

30 Q. What liaison do you maintain with them



1 for that purpose?

2 A. The only liaison between the Harbour
3 Master's office and the airport is strictly weather
4 information which we obtain.

5 Q. By telephone lines from the meteorologi-
6 cal office at the airport?

7 A. Yes.

8 Q. That airport, which is so evident on
9 the map, is situated beside the Western gap. The
10 Commision counsel was inquiring from the General Manager
11 about it. Perhaps we might deal with it now. I take
12 it that that is a flat airport like they all are.
13 There are no obstructions and no natural elevations
14 along the edge?

15 A. No, none at all; just the control tower
16 and the hangar.

17 Q. A ship sailing from the west could it
18 see across the land and see any ships in the harbour?

19 A. Yes.

20 Q. It has an unobstructed vision as you
21 go in and out?

22 A. Yes, you can see the other side of the
23 gap.

24 Q. I take it that this is obvious but let
25 us deal with it anyway. That western gap is dredged
26 to a depth which is at least as deep as that through
27 which the ship has sailed to get that far?

28 A. Two and one-half feet at least.

29 Q. No danger of the ship sitting in the
30 bottom if it has come through the Seaway?



1 A. Yes, or the Welland Canal.

2 Q. Or come the other way, yes. Now what
3 about the tugs in the harbour? What tugs are available?

4 A. Apart from the Harbour Commissioners'
5 tug, which is not used with ocean ships, we have three
6 small tugs operated by Waterman's Services. He has
7 some organization that handles the lines for the vessels
8 and takes the pilots out. His tugs have proved ade-
9 quate for any requirements that have been here.

10 Q. They operate on their own and I take it
11 they make their own arrangements with the ship owners?

12 A. It is direct usually from the Master
13 or agent, depending where the vessel is going to berth,
14 its size and the weather conditions prevailing.

15 Q. They obtain their orders from the ship-
16 owners?

17 A. Yes.

18 Q. Arrangemtns are made between the ship-
19 owner and the tug?

20 A. Yes.

21 Q. Perhaps the shipowner uses the master?

22 A. It does not come through us.

23 Q. It doesn't come through you?

24 A. No.

25 Q. I don't know that it is necessary to
26 further encumber the Commission record with exhibits.

27 In the letter from the Commission Secretary of February
28 7th we were asked about notice to commissioners and so

29 on. This involves the radio communications system.

30 I don't propose to put them in as exhibits unless



1 somebody wishes me to do so.

2 Well now, perhaps the easy way to
3 cover this next stage of the picture, Captain Mann,
4 would be for you to describe the procedure that a
5 vessel follows as it navigates into Lake Ontario and
6 then across the lake and into the harbour and through
7 the harbour entrance to the dock. Then we will do
8 one on the way back out.

9 What does the vessel do when it comes
10 down river and gets to Cape Vincent. I think basically
11 we start anticipating the vessel's arrival approxi-
12 mately three weeks ahead of time. We keep a running
13 list which is compiled from advice from agents, schedules,
14 stevedoring expectancies of vessels which are expected
15 to get up the Seaway. The first intimation is upon
16 receipt of a signal sheet which is issued daily from
17 Montreal and upon that we plot our vessel and know
18 when she is at Les Escoumains, somewhere in the vicinity
19 of the Seaway. Once she has left Montreal the tele-
20 type gives the time of departure and we keep a running
21 tab on Montreal through each of the locks to Kingston.
22 On a vessel that is a regular trader we have a very
23 good idea from cards we keep the length of time it will
24 normally take to go from Kingston to Toronto. We also
25 make a note of whether she has a lake pilot on board
26 or not. That is for our own information.

27 Q. Do the ship agents in Toronto keep
28 in touch with you to compare notes on information where
29 the vessel is?

30 A. Yes. Our office is open twenty-four



1 hours a day and we answer innumerable calls from all
2 sorts of interested parties on the position of the
3 vessel at the moment and ETA's. Any advice we can
4 give them we do. Upon the ship leaving Kingston we
5 have received an order for a pilot from the agent
6 eighty per cent of the time.

7 Q. Would that agent be in Toronto?

8 A. Yes. We have the plot position. We
9 have the ETA and we notify the pilot who will be on
10 duty at that time.

11 Q. That is your own pilot?

12 A. Yes. Once the vessel is in the
13 vicinity we can pick her up by radar and sometimes speak
14 to her on the radio and get a definite ETA from the
15 master and have a pilot at the Fairway Buoy.

16 Q. How does he get there?

17 A. In a tug provided by Waterman Services.

18 Q. Who makes that arrangement?

19 A. That is between the agent and Water-
20 man's Services. Most of them have a contract for his
21 services.

22 Q. Would you indicate the Fairway Buoy on
23 that map?

24 A. Yes, approximately 6,000 feet from the
25 end of the west gap.

26 Q. All right. Then the vessel picks up
27 the pilot at that point and then what happens?

28 A. Then she navigates. She has called
29 in previously and is given a berth. The berth is
30 arranged beforehand by the Operations Department who



1 English

2 handle the terminals and he proceeds into the berth.

3 If he must consider the water conditions and it is
4 necessary he may order a tug, very rarely a tug is
5 used.

6 Q. This question came up before and perhaps
7 you might deal with it now. Would the local pilots
8 use the tugs more or less than the vessel masters
9 themselves or the lake pilots?

10 A. I don't think there is any comparison.
11 It is the size of the ship and her condition of dis-
12 placement which has affected the use or not of tugs.
13 I don't think harbour pilots or lake pilots have used
14 a tug one more than the other. At least not in so far
15 as our records show.

16 Q. Now that is the procedure you have
17 followed to bring the vessel down across the lake and
18 into the harbour and tie it up?

19 A. That is correct.

20 Q. Who provides the line service in the
21 tying up operation?

22 A. The same Waterman's Services. Basically
23 the tug that puts the pilot on board attends to the vessel,
24 puts it in the intended berth and puts the men ashore to
25 tie the lines.

26 Q. Outgoing is the reversal of that?

27 A. Yes, only the pilot goes around in a car.

28 Q. He is taken on when the ship is at the
29 dock?

30 A. Yes.



1 Q. Tell me when are the arrangements most
2 frequently made for the pilot that is taking an outgoing
3 vessel?

4 A. Once the agent has a definite idea from
5 the stevedores when the vessel is expected to complete
6 and on advice from the master by the agent to us we
7 provide a pilot.

8 Q. Are these pilot arrangements made on
9 a per ship basis per occasion or are most covered by
10 arrangements of long standing or continuing arrangements
11 between the shipping line?

12 A. A mixture of both. Regular lines
13 coming in have certain ships they use a pilot on all the
14 time. Some masters prefer to do their own piloting.
15 They have been running here for years. Most ships who
16 are not regular traders, the first time up they call for
17 the use of a pilot.

18 Q. There was one other type of operation
19 covered by this pilot service and that is moves within
20 the harbour. How are they handled?

21 A. Basically the same as a vessel leaving
22 the harbour. The pilot comes on and takes the vessel
23 from one berth to another. Arrangements are made
24 ahead of time just the same.

25 Q. Those operations, I think you put them
26 briefly, these moves and the use of the various berths
27 are controlled by the Department of Operations?

28 A. Yes. Within THC's piers 95 per cent
29 go to one or other of our terminals.

30 Q. I suppose the number of moves relate to



1 the movement of the vessel from one of your terminals to
2 a private terminal?

3 A. Yes, or heavy lift to normal berth.

4 Q. I don't wish to duplicate the question-
5 ing of Mr. Griffith but what procedure do you follow to
6 find out? How do you know if there is a lake pilot
7 on board the vessel or a man holding a B certificate
8 when you put a pilot on board?

9 A. We have to assume if there is a lake
10 pilot on board the ship did not have a B certificate.
11 We didn't inquire from the master whether he had a B
12 certificate.

13 Q. And if they haven't got a B certifi-
14 cate what do you do?

15 A. We made sure they had lake pilots on
16 board. We have even had occasions where we have been
17 ordered to move the ship. Pilots came on board and
18 found there was not a lake pilot and we have contacted
19 Port Weller by teletype.

20 Q. As a matter of documentation perhaps it
21 would be interesting to the Commission to have you
22 identify the document the pilot takes on board with him.
23 Could you identify the card?

24 A. Yes, it is the pilotage card used by
25 the local pilots of the Port of Toronto. We have two
26 cards signed by each master.

27 Q. You keep one?

28 A. Yes, and send one with the invoice to
29 the agent for payment.

30 ---EXHIBIT NO. 1116: Pilotage card.



1 English

2 Q. Now, Captain Mann, I would like to
3 change the subject to something more specific. Why
4 do the ship agents, ship owners and masters utilize
5 these local pilots, port pilots?

6 A. Primarily for local knowledge, I be-
7 lieve from what I have been told by the agents and
8 masters concerned, they have up-to-date and the latest
9 information on soundings, movements within the harbour.
10 That is the main reason.

11 Q. Now this safety issue which has come
12 up before, have you any comments about the conditions of
13 the harbour, the conditions of the shipping within the
14 harbour as regards the safety factor?

15 A. Toronto basically is a straightforward
16 port. No port is easy. It is a safe port, as safe
17 as you can possibly get. It is well marked and naviga-
18 tion aids are ample. It has a good draught in both
19 the channels and the outlying areas to the channels.
20 It is a safe port to navigate both in and out.

21 Q. This matter of having port pilots, let
22 me ask you about your general experience elsewhere.
23 First of all take a place like the Port of London, is
24 there a practice there of having local pilots take over
25 from the river pilots?

26 A. Oh, the Channel pilot takes the vessel
27 up as far as Gravesend and then the River pilot boards
28 and he takes her up the river to the lock into whichever
29 dock he intends to berth. That is compulsory pilotage
30 by Trinity House, of course.



1 Q. That is, you have to have the pilot
2 from Gravesend up to the lock?

3 A. Yes. That is the river pilot and he
4 is compulsory by Trinity House.

5 Q. Then what happens?

6 A. In most cases the docking pilot comes
7 on board and takes the vessel. That is not compulsory.
8 That is optional and upon contract between the steamship
9 agent and the owners or the pilot.

10 Q. What is the practice in London? Do
11 most vessels use the optional pilot from the locks
12 to the dock?

13 A. In my experience I would say yes.

14 Q. Why is that docking pilot used?

15 A. That is local knowledge of the dock.

16 Q. Due to the congestion of traffic and so
17 on?

18 A. Yes, congestion and he handles the
19 traffic in that particular dock.

20 Q. Is there an economic factor in hiring
21 a port pilot? Does it shorten the time of bringing the
22 vessel in and the time you take tying up and starting to
23 unload?

24 A. I think it must be. The man knows
25 what is ahead of him and he is going to proceed safely
26 and probably will be a little faster than the one who
27 does not.

28

29

30



1 Q. Gangs that are waiting on the dock for
2 unloading, how are they organized to be there at the
3 right time and not ahead of time?

4 A. That is arranged by the agents for the
5 vessel. We are talking about the Port of Toronto.
6 A vessel, for example, that expected to be here for
7 eight o'clock in the morning, the gang has got to be
8 ordered by four o'clock the preceding afternoon.

9 Q. Yes?

10 A. So many gangs will be ordered, and the
11 agent naturally is hoping his ship will be in on time.

12 Q. If the vessel is late in coming in and
13 the gangs are hanging around on the dock, who pays those
14 gangs?

15 A. The vessel loses on that. It has
16 got to be paid.

17 Q. Well now, we strayed a little bit from
18 what happens around the world. What happens in the
19 harbour at the City of New York as regards pilots?

20 A. The river pilot there takes you from
21 Sandy Hook, the pilot station for New York, and generally
22 he brings the vessel to a stop where he is intending
23 to dock, and naturally the master of one of the tugs
24 comes on board and completes the docking.

25 Q. And the river pilot stays on board
26 until he comes into dock, but he doesn't do any work?

27 A. The actual manipulation of the vessel
28 is done by the tug master.

29 Q. In both the New York situation and the
30 City of London I take it the river pilot is not paid
beyond the point where the port pilot takes over?



1 A. No, he isn't as far as the City of
2 London is concerned because the tariff calls for it,
3 but New York, I couldn't say.

4 Q. There were some specific items on
5 which the Secretary of the Royal Commission requested
6 some information. Item No. 4 of the letter of February,
7 1964 was a statement as to dock damage by inbound and
8 outbound vessels. Have you got such a statement?

9 A. I have a copy of it here.

10 Q. I am showing you this statement which
11 I will file, if I may, as an exhibit.

12 A. Yes.

13 Q. You have some figures on yours. Are
14 the same other than your handwritten notes? I will file
15 mine, if I may. This is three pages, my lord, of
16 items covering 1959 to 1963, a catalogue of small
17 incidents involving damage to port installations.

18 THE SECRETARY: Exhibit 1117.

19
20 ---EXHIBIT NO. 1117: Three-page document showing
21 damage to port installations
(Toronto).

22 Q. What was the total cost of the damage
23 so far as the Toronto Harbour Commissioners were con-
24 cerned?

25 A. As near as we have been able to assess
26 it, around \$6,067.

27 Q. Item No. 7 requested in that same
28 letter dealt with statement of working time lost by
29 vessels at anchor awaiting berths?

30 A. Yes.



English

MR. ESTEY: This is composed, my lord, of two pages or two types of pages; the first one sets out the number of vessels for each of the years 1959 to 1963 to which there is attached a report of lost working time.

Q. Captain, the number of vessels in 1959 would appear to be 42, and it goes up to 56 in 1960, and then down to 22 in 1963. Have you any comment on that?

A. The main reason, of course, has been the increase of facilities for loading and discharging vessels; extra terminals cut down the waiting time considerably.

MR. ESTEY: This, my lord, is the exhibit.

THE SECRETARY: Exhibit 1118.

---EXHIBIT NO. 1118: Statement of working time lost.

Q. Captain, the second part of this exhibit deals with an itemized list, vessel for vessel, time of anchoring and the amount of working time lost, and then there is another column, cause of anchoring. First of all, generally what does this table set forth? What kind of loss?

A. I don't quite understand.

Q. Let's take the very first one which says UTRECHT, April 22, 1963, cause of anchoring. Under that heading it says awaiting 24 face.

A. It was to discharge at pier 24 on the face, and on arrival there was another vessel waiting



1 English

2 discharge there so the UTRECHT had to wait until that
3 first vessel left the berth.

4 Q. On the same vessel, way off in the
5 right hand side, it says if working time lost and then
6 underneath you have reported no berth available at 24?

7 A. Yes. There was no loss in time
8 there because it was in the evening and they were not
9 going to work anyway.

10 Q. Just running down the column headed
11 Cause of Anchoring, there were a number of explanations
12 which are the same as in the UTRECHT, but we turn now to
13 a vessel called TRANSCANADA, and under that heading the
14 comment is at anchor at Fairway Buoy-fog. I suppose
15 that means what it says, the loss of time was due to fog?

16 A. He chose to anchor at the Fairway Buoy
17 rather than to bring his vessel in.

18 Q. Another cause which is given in
19 respect to a number of vessels on page 1 is awaiting
20 daylight?

21 A. Yes.

22 Q. There again there is no time lost?

23 A. That is the captain's option again to
24 wait outside until daylight.

25 Q. Without going through all the detail,
26 I take it this report simply shows the delays for what-
27 ever cause may be shown?

28 A. Yes.

29 Q. Incurred by a vessel after it arrives
30 at the Fairway Buoy before it gets tied up at its dock?



1 English

2 A. That is right.

3 Q. Do you bring vessels in during the fog,
4 during a fog in this harbour, or do they stay outside,
5 or what is the practice?

6 A. Captain Livingstone and Captain
7 Robinson have never refused to bring a vessel in in fog.
8 They have brought them in.

9 Q. The only time we have fog is during the
10 football games.

11 A. The Grey Cup games, yes.

12 Q. Did you bring any vessels in that day?

13 A. One vessel came in. The last vessel
14 of the season arrived during the Grey Cup game, just
15 before it was postponed.

16 Q. There was only one general topic which
17 I would like to ask about, and the Commission counsel
18 raised it and I think perhaps we should put it in now.
19 What are the qualifications of the pilots of the
20 Toronto Harbour Commissioners? We have identified
21 them as Captains Livingstone and Robinson. Let us deal
22 with Livingstone first.

23 A. Captain Livingstone was employed on the
24 Welland Canal. A Welland Canal pilot for a season and
25 a half, and then in 1959 he came over here and operated
26 here for part of the season as the harbour pilot, to-
27 gether with one or two other pilots.

28 In 1960 he operated by arrangement with
29 the steamship agents as their harbour pilot for Toronto.
30 The logical thing, when we came to take over piloting



1 in 1961, we offered Captain Livingstone the position, and
2 he has been with us ever since 1961, 1962 and 1963.

3 Q. And Captain Robinson?

4 A. Captain Robinson was a Welland Canal
5 pilot for five years, and he was one of the applicants
6 when we were going to take on a second pilot in 1962.
7 We chose Captain Robinson from his five years on the
8 Welland Canal.

9 Q. My other topic related to that is
10 that there was a discussion during Mr. Griffith's
11 testimony this morning about how the pilotage system
12 grew up and how informal it seemed to be, if I can use
13 that term, in 1959 and 1960. Now, what happened then?

14 A. In 1959 there were two or three people
15 operating as pilots. Most qualified and most able to
16 do the job, but in one instance we had, for example,
17 when a ship decided he wanted a pilot late at night, a
18 ship chandler's runner took the vessel out to the
19 Fairway Buoy, and to our knowledge he had never been
20 outside the harbour before. So it was growing out of
21 that that I believe the agents approached Captain
22 Livingstone.

23 Q. I wish to preface this in order to keep
24 the examination within reasonable limits that we are not
25 concerned with minor fracasess with individuals or
26 personalities, but what kind of services are you asked
27 to perform for the lake pilots in the course of their
28 travels in and away from the Port of Toronto?

29 A. Our office has been open twenty-four
30 hours a day. We provide a service. Our records are



1 English

2 available; accessibility to charts are there for anybody
3 to see at any time in connection with shipping.

4 As far as service is concerned, once a
5 lake pilot has reached the Fairway Buoy, he has called
6 in, and asked us to notify Port Weller or Kingston,
7 depending which area he is interested in, that he is
8 there; he is available. He has asked us to find out
9 if there are any ships in harbour likely to require his
10 services.

11 We notify Port Weller. It is possible
12 there has not been a vessel here, but in Hamilton waiting.
13 Numerous times there has been a connection that he has
14 got to catch as far as a bus or train; one member of
15 the Harbour Commissioners or another has run him up in
16 his car to the bus station or railway station.

17 We make numerous phone calls for them.
18 If they are staying in Toronto they will go up to one
19 of the hotels, and call down and expect us to give
20 them information they require, all of which has been
21 done very readily, as far as our organization is con-
22 cerned.

23 MR. ESTEY: Thank you.

24 COMMISSIONER SMITH: If your lordship
25 pleases I would like to ask the witness a couple of
26 questions.

27 Captain, the two pilots I judge from
28 their experience, and one of them a professor at the
29 Nautical School, are fairly familiar with the radar
30 technique which I understand is only needed in times of



1 English

2 the football games in Toronto.

3 THE WITNESS: Yes, sir. In fact, Captain
4 Livingstone, the principal of this Nautical School in
5 Toronto here -- they have one of the new radar assimili-
6 ator courses going there, and they instruct in the
7 radar assimilator course.

8 COMMISSIONER SMITH: Is the radar put to
9 frequent use?

10 THE WITNESS: It is not going twenty-four
11 hours a day, sir, but we put it to frequent use when
12 we are expecting a vessel or when the weather conditions
13 are ---

14 COMMISSIONER SMITH: What has been the
15 experience as to the condition of the radar set on the
16 ships that come into the harbour? Are they properly
17 maintained? We have had some evidence before this
18 Commission that some of the radar sets on some of the
19 ships are not in working order, proper working order.

20 THE WITNESS: There have been occasions
21 where our pilots have reported that the radar has not
22 been working, and we have had reports in from vessels'
23 masters themselves saying their radars have gone out of
24 action, and they ask us to contact the local represen-
25 tative for that particular radar set to meet them on
26 arrival and effect repairs.

27 COMMISSIONER SMITH: I take it you have a
28 high opinion of the effectiveness of radar as an aid to
29 navigation; is that right?

30 THE WITNESS: Yes, with ability and common



1 English

2 sense, yes, but as an aid.

3 COMMISSIONER SMITH: Thank you.

4 CROSS-EXAMINATION BY MR. LALONDE:

5
6 Q. Captain Mann, would you know what the
7 cost of the pilot boat service is to take a pilot to
8 the Fairway Buoy?

9 A. Ten dollars each way.

10 Q. Ten dollars each way?

11 A. Yes.

12 Q. You were master of one of the Man-
13 chester liners?

14 A. No, sir, chief officer.

15 Q. Did you ply between Canada and Man-
16 chester?

17 A. Yes, for a number of years.

18 Q. Did you use the Manchester Canal?

19 A. Yes.

20 Q. What years were these?

21 A. I first went with the Manchester Line ---

22 Q. The last time you were there?

23 A. The beginning of 1953.

24 Q. You very rapidly explained what the
25 procedure was. Did you use pilots in the Manchester
26 Canal?

27 A. Yes, it is voluntary pilotage.

28 Q. Did you use a pilot also?

29 A. Most vessels of the size we are dealing
30 with generally use two tugs. Actually the 250-footers



1 used one tug as a rule but occasionally went without any.

2 Q. Were you plying regularly between
3 Manchester and Canada? Was this your main port?

4 A. Apart from the war years and before
5 the war when I was out east, yes, Montreal, Halifax,
6 Manchester.

7 Q. Did you use a pilot every time in the
8 Manchester Canal?

9 A. Yes, we have a pilot appropriated by
10 the company.

11 Q. How many trips would you make per year
12 between Manchester and Canada roughly?

13 A. Six.

14 Q. In the most active years?

15 A. I would say six.

16 Q. Now, you stated I think that the re-
17 quests for local pilots came from the local agents; is
18 that correct?

19 A. Yes, sir. Eighty per cent of the
20 cases the order comes from the local agents.

21 Q. What percentage?

22 A. This is guessing, of course. Eighty.
23 Eighty to eighty-five.

24 Q. In the other instances where would they
25 come from?

26 A. Direct calls from the master of the
27 vessel.

28 Q. Are there some lines or some agents
29 where you have it on a more regular basis; they all will
30 take a pilot, a local pilot, whether or not there is a



1 English

2 lake pilot on board?

3 A. Yes. Not agents. Lines more than
4 agents.

5 Q. What would these lines be?

6 A. Most British lines use local pilots.

7 Q. Whether or not there is a lake pilot
8 on board?

9 A. Most of the regular lines have B
10 licences.

11 Q. I see. I am asking my question more
12 in connection with the ships having lake pilots on
13 board and requesting the services of a local pilot.
14 Let us leave out the B certificate.

15 A. I see. So we are dealing with vessels
16 that are up here for the first time with no B licence
17 on board, and the first time in Toronto a lot of them---

18 Q. Or ships ---

19 A. Or tramps.

20 Q. Or ships which might have a B certifi-
21 cate on board but who also have a lake pilot?

22 A. I have never to my knowledge been on
23 board or heard of a vessel with a lake pilot and B
24 licence as well.

25 Q. You haven't checked when there was a
26 lake pilot on board whether or not there was a B
27 certificate?

28 A. No, sir. We just check when there
29 is no B certificate that there is a lake pilot.

30 Q. So are there some lines then where this



1 English

2 practice is more regular of calling a local pilot when
3 you have a lake pilot on board a ship?

4 A. I don't say that. Most of the vessels
5 using lake pilots are tramps or vessels of regular
6 lines who are up here for the first time.

7 Q. Let us assume that. My question is
8 whether you have some lines or some agents who require,
9 nevertheless, a local pilot on a regular basis in these
10 instances?

11 A. No, sir, I can't say that. I don't
12 know of any particular agent who would order a pilot
13 more than another one in those instances.

14 Q. But do I understand you to say then it
15 just happens that one agent will call for a local pilot
16 even though there is a lake pilot on board on one date
17 and another agent on the next date ---

18
19
20 -

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29 -



1 A. No. Most orders, although they come
2 through the agents are at the request of the master of
3 the vessel.

4 Q. Have you ever checked that?

5 A. The agents have informed us of that.
6 We often get calls that such and such a vessel has
7 left Kingston and Captain So-and-So requests a pilot
8 on arrival.

9 Q. I see, but your contact has always been
10 in these cases through the agents?

11 A. Yes. In the normal course of seaman-
12 ship you deal with the agent.

13 Q. All these instances which have been
14 referred to by the previous witness where there was a
15 B certificate issued to the ship, these ships were
16 free from compulsory pilotage on Lake Ontario, were
17 they not?

18 A. Yes, with B licences.

19 Q. Yes, with a B licence. You are aware
20 of the International Agreement between Canada and the
21 United States on the operation of pilotage on the
22 Great Lakes?

23 A. Yes.

24 Q. Are you aware that this agreement
25 covers both Canadian and American harbours on the Great
26 Lakes?

27 A. Yes.

28 Q. Covers the whole Great Lakes Basin in
29 effect?

30 A. Yes.

Q. Would you say that if under the



1 English

2 agreement American lake ports are made subject to the
3 International Agreement it would be only fair that
4 Canadian lake ports would come under this International
5 Agreement also?

6 A. It is something I haven't given any
7 thought to, sir.

8 MR. LALONDE: Thank you.

9 THE CHAIRMAN: We have only a few minutes
10 to go. I suppose you have quite a few questions, Mr.
11 Brisset, and so will Mr. Jacques, so therefore we will
12 adjourn until this afternoon at two-thirty.

13
14 ---Luncheon adjournment.
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1
2 ---UPON RESUMING AT 2:30 P.M.:

3 CAPTAIN MANN

4 CROSS-EXAMINATION BY MR. BRISSET:

5
6 Q Captain Mann, when did you come
7 ashore?

8 A 1953, in April.

9 Q Before coming ashore you had been
10 an Officer on a Manchester vessel trading regularly
11 into the Lakes?

12 A That is correct, sir.

13 Q You were only Chief Officer, and
14 not in command of the vessel?

15 A That is right.

16 Q I take it that during your voyages
17 in the Lakes, say to Toronto, you had occasion to go
18 through the open waters of Lake Ontario during your
19 watch as First Officer?

20 A That is right.

21 Q In order not to lose your way on
22 Lake Ontario, say the first time you came up there,
23 did you have to get the advice of the sailing master
24 that might have been on board?

25 A We had a sailing master who joined
26 us in Montreal. This is going back twelve years now.
27 I cannot remember him being on the bridge in Lake
28 Ontario.

29 Q In other words I take it that the
30



1 sailing masters would be used in the restricted waters
2 in the canals and that portion for instance between
3 Montreal and Kingston?

4 A That is correct.

5 Q Captain Mann, would you share the
6 views of the port manager to the effect that an ocean
7 ship master who has been all over the world can find
8 his way through the open waters of Lake Ontario, for
9 instance?

10 A I think so, sir, yes.

11 Q Would you agree that he could also
12 find his way through the open waters of the other lakes
13 -- Lake Superior, Lake Michigan?

14 A I do not think I am qualified to
15 answer that question. I have not been up there.

16 Q You have not. The port manager
17 this morning, Captain, mentioned that the Toronto
18 Harbour Commissioners had been accused of breaching
19 the law with respect to pilotage within the limits of
20 the harbour. Has it ever occurred to you or to the
21 Commissioners to your knowledge to have the pilots
22 serving in the harbour apply for a B licence?

23 A They would not be able to apply for
24 a B licence, sir, under the terms of the B licences
25 now.

26 Q I notice, Captain, from Exhibit
27 1115 that in 1962 you made five pilotage trips during
28 the course of the season?

29 A Beginning of the season.
30



1 Q None in 1963?

2 A That is correct.

3 Q In spite of that would you consider
4 yourself qualified to pilot a vessel in the harbour of
5 Toronto this year if you were asked to do it?

6 A If necessary, sir, yes.

7 Q You would have no hesitation in say-
8 ing you are qualified, would you?

9 A I believe so, sir.

10 Q You are aware of the requirements
11 to obtain a B certificate?

12 A Yes, sir.

13 Q I would like to check with you
14 whether you would be qualified yourself to get a B
15 certificate. I have before me the requirements, which
16 I would like to read to you. Requirement No. 1 is to
17 own an appropriate certificate of competency as master
18 valid for voyages in any part of the world and issued
19 or recognized by the country in which the ship is
20 registered.

21 A Yes.

22 Q You have a master foreign-going
23 licence, have you?

24 A I do, sir, yes.

25 Q But issued by the British Government?

26 A That is correct.

27 Q Therefore you would meet this re-
28 quirement on a British ship?

29 A Right, sir, if that is the ...

30 Q You would not meet it on a Norwegian



1 ship?

2 A Not for a B licence, no, sir.

3 Q So therefore if the British ship
4 were to come in the harbour of Toronto, which is un-
5 designated waters, you would qualify for the B licence,
6 but if it were a Norwegian ship you would not qualify
7 for the B licence?

8 A I would not qualify for the B
9 licence on any ship at the moment. I have not done
10 two voyages up the lakes in the preceding --

11 Q That is what I was coming to. That
12 is another requirement.

13 A Quite.

14 Q Let us stick to the first one.

15 A All right.

16 Q The second requirement would be
17 having the experience of at least two round trips
18 within the preceding two years in the open or un-
19 designated waters of the Great Lakes where the vessel
20 will be operating?

21 A Yes.

22 Q Therefore you would not qualify to
23 get a B licence to pilot a ship in the harbour of
24 Toronto under this requirement?

25 A Under that requirement, no, sir.

26 Q Or do you feel perfectly qualified
27 to do it?

28 A I feel competent to do it.

29 Q Competent, yes; you are quite
30 right. We shall distinguish "qualified" from



1 "competent". The third requirement is to possess a
2 working knowledge of the Great Lakes rules of the road
3 as evidenced by examination.

4 A Yes.

5 Q Would you qualify under this re-
6 quirement -- a working knowledge of the Great Lakes
7 rules of the road?

8 A I have a good knowledge of the dif-
9 ferences between the Great Lakes and the International
10 Rules.

11 Q Have you found it difficult to ob-
12 tain this knowledge, Captain?

13 A No, sir. In my capacity as Harbour
14 Master now I have not had the necessity to use it, but
15 it is there for anybody to see. It is laid out quite
16 clearly, the difference between fog signals etcetera.

17 Q As an officer on board a foreign-
18 going ship trading all over the world, did you find it
19 difficult to acquaint yourself with the Lakes rules of
20 the road?

21 A There were differences. They were
22 posted in the wheel house. We had a printed form, a
23 large frame in the wheel house of all the vessels
24 coming up the Lakes, of the different systems.

25 Q Do you know who is responsible for
26 putting up that poster in the wheel house of your ship?

27 A No, sir, I do not.

28 Q You have seen it there?

29 A Yes, I have seen it there, but that
30 is twelve years ago.



1 Q The fourth requirement reads: "Have
2 proficiency in the English language, to be tested also
3 by examination."

4 A I hope so.

5 Q So on that you would definitely
6 qualify. The last requirement is to have knowledge of
7 the practice of following separate upbound and down-
8 bound courses on the Great Lakes giving due regard to
9 the suitability of such courses for deep draft vessels.

10 Would you qualify under this
11 requirement?

12 A I can read a chart, sir, yes.

13 Q You know that these courses are
14 shown on the charts issued for the Great Lakes?

15 A Yes.

16 Q However, to resume your evidence,
17 you would consider yourself competent to pilot a ship
18 within the limits of the harbour of Toronto but not
19 qualified to get a B certificate?

20 A I am not qualified to get a B
21 certificate, no, sir.

22 Q What about the other pilots operating
23 within the harbour of Toronto?

24 A Neither of them are qualified to ob-
25 tain a B certificate on those grounds. They have not
26 been employed on a vessel in the preceding required
27 time.

28 Q In other words none of them have
29 certificates that would qualify them to sail the five
30 oceans of the world?



1 A Yes. Captain Livingstone has a
2 deep sea masters; Captain Robinson has a lake masters.

3 Q So Captain Robinson would not be
4 qualified to get his B licence since he has not got a
5 foreign-going?

6 A Quite correct.

7 M. LALONDE: I wonder what my friend
8 is reading from? There are regulations in Canada; you
9 could refer to Canadian regulations. The way I read
10 it is that the first qualification is that he holds a
11 certificate or licence entitling him to act as a master
12 of a steam ship on foreign voyages, or a certificate
13 of competency as master of an inland waters steamship,
14 or as master of a home trade steamship, issued under
15 the Act.

16 I am reading from the Great Lakes
17 Pilotage Regulations, Canada Shipping Act, P.C. 1961-
18 1969. This is the amendment of July 24th, 1961 amend-
19 ing the P.C. 1961-63 of April 27th, 1961.

20 MR. JACQUES: Filed as Exhibit 1008.

21 MR. BRISSET: I should have mentioned
22 to the Commission that I was reading from the Aide Memoire
23 of the Canadian Government deposited at the time the
24 American Legislation was debating before the Committee
25 of the House, which Aide Memoire served as the basis
26 for the memorandum of arrangements that we have been
27 discussing.

28 MR. LALONDE: I submit, my Lord,
29 this is a very dangerous practice which my friend is
30 following.



1 MR. BRISSET: Q Reverting to
2 the Canadian regulations, now that my learned friend
3 has made this correction here, Captain Robinson would
4 qualify seeing he has the required certificate of
5 competency?

6 A As far as the certificate goes.

7 Q But you would still not qualify
8 because you have not had your two trips within the last
9 two years?

10 A That is correct, sir.

11 MR. ESTEY: I suppose this raises
12 whether or not Section 7-1 applies too, does it not?

13 MR. LALONDE: Yes.

14 MR. ESTEY: I do not object to your
15 question, but it seems to me it is incomplete if you
16 looked only at 7-3. It seems to me 7-1 applies.

17 MR. JACQUES: Counsel referred to
18 Great Lakes Pilotage Regulations Section 7.

19 MR. ESTEY: Yes.

20 MR. LALONDE: Which, for the record,
21 reads as follows: "7(1) No person shall be deemed to
22 be qualified for the purposes of sub-paragraph (ii) of
23 Paragraph (b) of ^{sub-}section (1) to Section 375(B) of the
24 Act unless he is a member of the regular complement of
25 a vessel and he holds a certificate of qualification
26 issued (a) under the authority of the Minister and
27 certifying that he has been examined and found duly
28 qualified; or (b) by an authorized agency of the
29 Government of the United States of America certifying
30



1 that he is qualified."

2
3 MR. BRISSET: My Lord, I do not want
4 to enter into argument as to whether the regulations
5 are in line with the law as it exists or whether they
6 are not. I just wanted to make the point that under
7 the original arrangement for the issuance of B certifi-
8 cates Captain Mann would not qualify and I would like
9 to leave it at that for the moment, if I may.

10 Q Referring again to Exhibit 1115,
11 Captain, would you look at the statistics appearing on
12 the second page where you give a list of the number of
13 foreign vessels that arrived and departed in the years
14 1960 to 1963?

15 A Yes.

16 Q Let us take for instance the year

17 --

18 A I have not got that list in front
19 of me at the moment, sir.

20
21 --- (Same handed to witness.)

22
23 Q On page 2 you have for the year
24 1963 297 foreign vessels arrived and departed 1,988
25 times?

26 A That is right.

27 Q I take it that amongst these foreign
28 vessels there are regular traders?

29 A Correct.

30 Q On an average these regular traders



1 call how many times during the season in the Port of
2 Toronto?

3 A Depending on the first arrival
4 three or four times. They have three or four trips,
5 so they may call in as many as eight times in the
6 season upbound and downbound.

7 Q And that would not be unusual for
8 these regular traders; that would be a habit, is that
9 correct?

10 A Quite a lot of lines, their first
11 vessels make four trips right through the Lakes.

12 Q Has it happened, Captain, to your
13 knowledge that on some of these trips the master who
14 holds a B certificate might have been relieved for
15 various reasons and been replaced by a master who has
16 not had a previous trip on the Lakes?

17 A Yes, sir.

18 Q But the officers under him would be
19 the same during the season; is that correct?

20 A Yes, quite often.

21 Q And in these cases because these
22 officers do not hold masters foreign-going licences
23 or certificates of competency the ship has had to use
24 a trans-lake pilot?

25 A I could not say that, sir, because
26 on most of the British lines the chief officer carries
27 a master's certificate as well.

28 Q What about lines of other countries?

29 A Well, I assume the same there too.
30



1 I cannot speak from experience on
2 this.

3 Q What I was driving at is, are you in
4 a position to say to us whether or not you would have
5 a regular trader coming into the Harbour of Toronto
6 with simply a change in his master, in the command,
7 with the same officers on board?

8 A Yes, that has happened.

9 Q But you are not able to say whether
10 in such cases the officers were able to qualify or not
11 for the B licence?

12 A Most of them have them sir.

13 Q Most of them have them?

14 A Most of the regular traders who
15 have two B licences.

16 Q Captain, you have filed as Exhibit
17 1118 a statement showing working time lost by vessels
18 at anchor awaiting berths. Where do these ships
19 usually anchor while thus waiting?

20 A It could be either outside or inside
21 the harbour. There are designated anchorage areas in-
22 side the harbour, and they may also choose to anchor
23 outside the Fairway Buoy.

24 Q In cases where the ship will anchor
25 inside waiting for a berth and that ship has used a
26 harbour pilot to come in what will be done with the
27 harbour pilot? Will he remain on board or come ashore
28 until the ship is ready to come in?

29 A The only time he would be likely to
30



1 stay on board is if it was a temporary anchoring for
2 a few minutes before the berth was free.

3 Q So the policy of your organization
4 is to remove the pilot if the ship has to stay at
5 anchor for any length of time?

6 A Yes, so the pilot considers his
7 duty done when the ship is safely anchored.

8 Q Are you aware of what the policy is
9 with respect to lake pilots that may be on board such
10 vessels that do anchor awaiting berths? Would they stay
11 on or are they removed?

12 A I believe, from memory from last
13 season, there again it would depend on how long the
14 vessel was going to be at anchor. But Port Weller re-
15 quired as a rule six hours' notice for a lake pilot,
16 so it would hardly be feasible for the agent to let
17 that pilot^{go}/and then have to re-order if he is going
18 to require him within a few hours.



1 Q What from your experience would be
2 the approximate length of time the ship would be at
3 anchor that will result in the lake pilot being recalled
4 to his base?

5 A I have no record on that at all, sir.
6 The lake pilot is not required to report into our office
7 at all when he leaves the ship.

8 Q Do I take it then that in the case
9 of the harbour pilot there are no detention charges
10 made?

11 A No, sir. The only time we have
12 made any charges, apart from the \$25.00 move charge,
13 is the time when the pilot has been ordered and stood
14 by ship and his services cancelled at the last minute.
15 We have made a detention charge normally of \$10.00 in-
16 stead of \$25.00. That has only happened two or three
17 times.

18 Q Which might be called a cancellation
19 charge as we have seen it in other tariffs?

20 A That is correct.

21 MR. BRISSET: Thank you very much.

22
23 CROSS-EXAMINATION BY MR. JACQUES:

24
25 Q Captain, referring again to Exhibit
26 1115 I note that on page 2 in 1963 you had 1,988 arrivals
27 and/or departures?

28 A Right.

29 Q If I turn to the last page of the
30 bundle I note the number of occasions on which a vessel



1 used a pilot, a local pilot, was 805 times?

2 A That is right.

3 Q So there were 1,183 occasions on
4 which presumably foreign vessels entered or left Toronto
5 without the assistance of a local pilot?

6 A Yes, sir, and also moves in the
7 Harbour.

8 Q Moved in the Harbour?

9 A They are not included in the ar-
10 rivals and departures, the Harbour moves.

11 Q According to the evidence that we
12 have had a foreign ship in order to move must have a
13 B certificate, a lake pilot, or a district pilot on
14 board.

15 A Correct, sir.

16 Q Would your records show the number
17 of times foreign ships moved in and out or moved with-
18 in Toronto without any assistance at all, without the
19 assistance of any pilot either local, district, or lake?

20 A No, sir, because we do not neces-
21 sarily know whether there is a lake pilot on board a
22 vessel that does not call for our harbour pilot.

23 Q I see. Now, sir, you receive orders
24 for pilotage, for your own pilotage?

25 A Yes.

26 Q Do you receive requests for lake
27 pilots and/or district pilots?

28 A We have done in the past.

29 Q Do you order tugs and linesmen?

30 A No, sir.



1 Q I am advised that you arranged meet-
2 ings between local ferry and tug captains to settle
3 differences concerning right-of-way?

4 A We have had disagreements in the
5 past mainly with the smaller craft, yachting and
6 ferries, and we have called meetings to iron out the
7 differences. We always attempt at all times to keep
8 the pleasure boat out of the way of the deep sea lanes.

9 Q On those occasions do you consult
10 with the Pilots' Organization, either lake or district?

11 A No, sir. We haven't done this.
12 This has not happened in the last three or four years.

13 Q Now, sir, you have mentioned your
14 qualifications of your pilots, your two colleagues who
15 are engaged in piloting and you have mentioned in the
16 case of Captain Robertson, I believe, that he made an
17 application for a job. Is that correct?

18 A He made application for a position
19 with the Harbour Commission once he knew we were think-
20 ing of hiring or taking on a second pilot.

21 Q Was there a public notice given in
22 the paper?

23 A No, sir. We had several applications
24 in the past asking us to consider them if we were going
25 to take on pilots.

26 Q Did you examine the applicant to
27 find out whether he was qualified?

28 A No, sir. We knew he had the quali-
29 fications after being five years on the Welland Canal.
30 He was a registered pilot when he came with us.



1 Q He didn't pass any examinations say
2 on local knowledge?

3 A No, sir.

4 Q Did he serve any period of apprent-
5 iceship of any kind, say make a few trips in and out
6 in the company of a senior pilot?

7 A He had done that the year previous
8 as District No. 2 Pilot from Port Weller. He had been
9 over here and made several trips.

10 Q What is the length of notice which
11 you require to supply a local pilot?

12 A We ask for two hours but very often
13 get ten minutes.

14 Q I am advised that some of the pilots
15 have been dispatched to take ships from Toronto to
16 Hamilton. Do you have any knowledge of that?

17 A We have never had a pilot take a
18 ship from Toronto to Hamilton, not one of our pilots.

19 Q Toronto to Clarkson?

20 A Correct, sir.

21 MR. LALONDE: Where is Clarkson?

22 MR. ESTEY: Halfway between here
23 and Hamilton on the north shore of the lake.

24 MR. JACQUES: Q Would you
25 tell us more about those occasions?

26 A The British-American Oil Company
27 has a dock at Clarkson and I believe it is quite dif-
28 ficult, there is a shallow spot. They asked Captain
29 Livingstone whether he would take in the larger tankers
30 they had coming up into Clarkson.



1 On the permission of the Harbour
2 Commissioners they allow him to do so. He arranged to
3 meet the vessels at Toronto at the East gap and board
4 them and take them into the Humber Bay for lightening
5 if necessary and then take them to Clarkson.

6 He continued to do so until the end
7 of last season.

8 Q This happened some years ago? How
9 many years ago?

10 A I believe three years he has been
11 doing it now.

12 Q 1960?

13 A 1961, 1962, 1963.

14 Q He has been doing it for the past
15 three years?

16 A Yes.

17 Q In those cases who sends the bill
18 for pilotage?

19 A As far as Captain Livingstone's
20 services it is sent the same as the other bills, from
21 the Toronto Harbour Commissioners.

22 Q To?

23 A To the British-American Oil Company.

24 Q What fee do you charge for that?

25 A \$50 instead of \$25.

26 Q Do you have a record of the number
27 of such trips that he had made in the past three years?

28 A I haven't got it here but I can very
29 easily get it. I would say in the past three years
30 around ten or twelve over the three years.



1 Q And have you received any complaint
2 on the part of either the Department of Transport or
3 the U.S. Great Lakes Pilotage Administration with re-
4 spect to that type of piloting?

5 A I believe there was some correspond-
6 ence on it, sir. The only thing that I am aware of
7 is it was questioned at one time whether there was a
8 lake pilot on board as well as Captain Livingstone.

9 To the best of my knowledge we
10 searched the record and we found there was a lake
11 pilot on board. What happened was the vessel came off
12 the east gap and Captain Livingstone boarded and the
13 lake pilot took the vessel to anchor in Humber Bay to
14 lighten and left the vessel, Captain Livingstone left.

15 The next day we got a message that
16 the vessel was ready to proceed to Clarkson and Captain
17 Livingstone went out again. To his understanding the
18 lake pilot was still on board and he completed the trip
19 into Clarkson.

20 Q On each and every one of these oc-
21 casions do you know whether there was a lake pilot
22 aboard?

23 A If it did not have a B license, yes.
24 Captain Livingstone from that time on has always made
25 doubly sure there is a lake pilot if the vessel has
26 not got a B license. The B-A usually charter one or
27 two tankers each season and after they have made one
28 or two trips they generally get their B license.

29 Q With regard to the pilot boat, would
30 you describe the boat for the Commission, the length



1 and whether she is decked and so on?

2 A Approximately 40-foot. She has a
3 wheel house which will hold three men comfortably.
4 She has a radio-telephone and a compass, of course.
5 She is quite clearly marked "Pilot". They are new.
6 The oldest would be five years old. There are two of
7 them.

8 Q You say she has a radio-telephone
9 on board. Is that the Harbour Commissioner's radio-
10 telephone?

11 A They are not the Harbour Commissioner's
12 tugs. They are operated by Waterman's Services.

13 Q They own the radio-telephone?

14 A It is owned by Waterman's Services.
15 Whether owned or rented I am not sure.

16 Q You have had occasion to use boats
17 yourself as a pilot?

18 A They are the only pilot boats in
19 existence in Toronto.

20 Q Are you satisfied with the service
21 that is provided?

22 A I was and I believe both our pilots
23 are very satisfied.

24 Q You have heard complaints on the
25 part of fellow pilots with respect to the boat
26 services?

27 A No, I haven't.

28 Q Has any accident ever happened
29 during boarding or disembarking from a ship?

30 A No, sir, none at all that has been



1 recorded.

2 Q With respect to boarding facilities
3 what do you require? Do you require an accommodation
4 ladder or are you satisfied with a Jacob's ladder?

5 A We are satisfied with a Jacob's
6 ladder. However, an accommodation ladder is very much
7 appreciated when it is there.

8 Q Do you make any request for an ac-
9 commodation ladder?

10 A No.

11 Q It is left up to the Captain?

12 A Yes.

13 Q How do you pass the order to the
14 tugs when you are docking?

15 A Via radio-telephone. They generally
16 use an A-M set. Once the pilot has boarded both the
17 tug and vessel give the range 4 on the AM set, which
18 is the working channel. They communicate back and
19 forward until the vessel is tied up.

20 Q Have you had occasion to dock ship,
21 had occasion to use the radio-telephone to communicate
22 orders?

23 A Yes.

24 Q Is that satisfactory?

25 A It is satisfactory, yes.

26 Q Have you had occasion when the tug
27 gets under the bow of the ship and you cannot communi-
28 cate with her any more, there is a blank spot?

29 A No, sir.

30 Q You have not experienced that?



1 A No. I have had no report on
2 difficulties.

3 Q In boarding the ship you use the
4 ship's radio-telephone?

5 A Yes.

6 Q It is not a portable radio-telephone,
7 is it?

8 A No. Some of them do have a micro-
9 phone which you can walk around with. They are basically
10 a standard set fitted in the wheel house.

11 Q Now, sir, in the course of your
12 duties as a pilot could you comment on the quality of
13 wheelmen which you have on board foreign ships?

14 A I personally have had no trouble at
15 all, sir. There again I have had one or two reports
16 from the pilots at various times, no official complaints
17 and nothing serious.

18 Q Now, as regards these shipping
19 assignments how are they tossed to the ship?

20 A They have been passed on by the
21 agent primarily responsible for letting the vessel
22 know where she is going to dock. They are last minute
23 instructions and we, of course, are always aware where
24 the vessel will burst. They have been passed by
25 Harbour Control.

26 Q They have been passed by Harbour
27 Control?

28 A Yes.

29 Q What about if she doesn't take a
30 local pilot?



1 A Our services are available to all.

2 We have never made any distinction as to a vessel having
3 a pilot or not.

4 Q I am advised that you have been
5 reluctant to pass berthing information to ships when a
6 local pilot was not hired?

7 A No, sir, never.

8 Q What is the average length of taking
9 a ship in or taking a ship out?

10 A Depending on the weather. You have
11 to turn her. It is a straightforward move from Fairway
12 to Pier 11. I think the pilots approximate 45 minutes
13 from Pier 11; to Pier 24 another twenty minutes probably.

14 Q What is the longest job?

15 A To load scrap iron. We have a berth
16 in the turning basin to the east and we have of course
17 to go through the bridge there, which is only 120-foot
18 space. That can take almost two hours to turn in the
19 turning basin.

20 Q So the longest job you would have,
21 barring bad weather, would be two hours?

22 A Yes.

23 Q Do you have bridge aft vessels
24 calling in Toronto?

25 A Yes.

26 Q What is your opinion of the pilotage
27 job on board such vessels? Do you find them more dif-
28 ficult to handle than the conventional three-islander?

29 A I don't think so, not now. There
30 are so many of them around. I think the pilots accept



1 them the same as they do the regular bridge and mid-
2 ships vessels.

3 Q What about going to the turning
4 basin?

5 A I don't think the bridge aft would
6 be more difficult.

7 Q Have you had occasion to do so?

8 A No. I was used for relieving or
9 when we were busy.

10 Q Now, with respect to the Western
11 gap I noted from Exhibit 1114 that there is a depth of
12 28 feet. Is that correct?

13 A Yes.

14 Q And in reply to a question put to
15 Mr. Griffiths this morning about possible grounding it
16 is obvious that no ship could ground if loaded properly?

17 A That is correct.

18 Q What would happen should a ship
19 sink in that channel --

20 A I imagine it would be the same as
21 a ship sinking in the Welland Canal or any other narrow
22 waterway. I couldn't see where it would happen any
23 more with a pilot on board or not.

24

25

26

27

28

29

30



1 Q Would the channel be completely
2 blocked?

3 A Well, it is a 400-foot channel, sir,
4 accessible from both sides, if necessary. I imagine
5 that salvage operations would be as straightforward
6 there as anywhere.

7 Q Are vessels allowed to meet in the
8 western gap?

9 A We have tried to stop it from a
10 safety angle, and before the Harbour Control, lake
11 vessels did pass the odd time there, but as a general
12 rule -- and most of the smaller ones, the C.S.L. who
13 are regular traders here -- but from the safety angle
14 we do try to stop it.

15 Q Have you been successful?

16 A I think so.

17 Q How do you control the movement
18 there?

19 A A vessel calling in to ask permission
20 to enter the Harbour would be advised of any other
21 vessels moving, and depending on the time at hand, we
22 would either tell them to enter or wait outside until
23 the outgoing vessel had cleared the piers. Otherwise
24 we would hold the vessel that was inside until the in-
25 bound vessel had cleared the eastern end of the gap.

26 Q Would all vessels invariably com-
27 municate with you before entering the harbour?

28 A Well, the last four years of the op-
29 eration I think we have had perhaps ten cases where for
30 various reasons the vessel has not called in, and we



1 have made it a point to board each vessel and question
2 the captain, the master, why he had not called in. As
3 a rule it was a radio defect more than anything.

4 Q Has there ever been an accident, a
5 collision, or any damage of any kind in the western gap?

6 A Not in the western gap, not to my
7 knowledge, sir.

8 Q You filed as Exhibit 1117 a list of
9 damage to dock installations?

10 A Yes, sir.

11 Q Were any pilots involved in these
12 incidents? Were pilots on board, either local,
13 district or lake?

14 A Oh yes, on some of them. I haven't
15 got here whether the pilots are on board or not. As
16 you can see, most of the damages were small but there
17 were pilots on some of them both lake and harbour.

18 Q Perhaps I was not listening care-
19 fully when you were being examined on Exhibit 1118,
20 but what does the mention "waiting daylight" mean to
21 all practical intention purposes?

22 A Well, a vessel arrives here at two
23 o'clock in the morning. He is certainly not going to
24 start discharging or loading until eight o'clock the
25 same day, and the master when he reports in would ask
26 permission if he could stay outside and anchor at
27 the Fairway Buoy until daylight.

28 Permission was normally given.
29 There was no reason why we wouldn't let him do that,
30 and he would pick up anchor at six o'clock, at daylight,



1 and come inside and have his gangway down and be ready
2 to work at eight o'clock. That was entirely his choice.

3 Q Is there anchorage in the confines
4 of the harbour?

5 A Yes, we have two anchorage areas in
6 the inner harbour.

7 Q Are they located on the plan,
8 Exhibit 1114?

9 A I have a plan --

10 MR. JACQUES: My Lord, I should
11 like to file as Exhibit 1119 a plan of Toronto Harbour
12 showing anchorages in the inner harbour.

13 ---EXHIBIT NO. 1119: Plan of Toronto Harbour,
14 showing anchorages in the
15 inner harbour.

16 Q How many ships can you accommodate
17 inside?

18 A We have had as many as half a
19 dozen at anchor, depending on the size of course.

20 Q Do you have a special provision
21 with respect to tankers anchoring inside?

22 A One anchor. The master chooses
23 which anchor he uses entirely.

24 Q With respect to tankers.

25 A To tankers, I am sorry. No, sir.

26 Q They can come in as freely as they
27 wish?

28 A Any vessel which has permission to
29 come up the Seaway is free to come into Toronto. If
30 he passes all the regulations necessary to transit the



1 Seaway, he can come into Toronto.

2 Q What about a tanker in a light
3 condition? Are you not afraid if your anchorage is
4 crowded this would create danger?

5 A The only time we have a tanker in
6 light condition is the occasion when they request per-
7 mission to gas free after discharging, in which case
8 we send them outside the harbour, into Humber Bay.

9 Q You had mentioned, or rather it was
10 implied in one answer you gave, you have a shore based
11 radar covering the harbour?

12 A We do sir, yes.

13 Q Where is it situated?

14 A It is situated in the Harbour
15 Commission building at 60 Harbour Street.

16 Q How long has it been in operation?

17 A It has completed its second year.

18 Q What was the purpose of installing
19 this radar?

20 A Safety, primarily as an aid to
21 navigation; so we could assist vessels or masters,
22 pilots as required.

23 Q How do you assist vessels with your
24 radar?

25 A We check on all vessels in the
26 vicinity at busy periods. We find out -- if we have a
27 report from a vessel that she is three miles off the
28 Fairway Buoy, we are able to check that, which has been
29 an aid to letting other vessels out. We did find three
30 miles when checked by radar was very often six miles,



1 and the reverse.

2 Q Did you pass on this information to
3 the master of the ship?

4 A All information we have, sir, is
5 available to anybody and we do pass it on.

6 Q Have you any terms and conditions
7 under which you pass this information? Do you do that
8 without any guarantee as to the accuracy of the
9 information?

10 A No, sir. When a vessel will ask us
11 why he has been held up, he may say "Why am I not al-
12 lowed out; the MIDLAND PRINCESS is ten miles off the
13 buoy." We can assure him she is only two miles off
14 the buoy and hold him.

15 Q If a ship were to come up to the
16 western gap and communicate with you by radio-telephone
17 and tell you "Well, I am three miles south of the
18 Fairway Buoy." and request permission to enter, would
19 you check on your radar the position of that vessel?

20 A You are talking about what has
21 happened in the past, of course? We haven't got Harbour
22 Control this season.

23 Q Who passes on the information which
24 you obtain from the radar now? Your radar is still in
25 operation?

26 A The radar is still in operation,
27 yes, but it is only used for safety now. I have
28 anticipated that our main use of it now will be to check
29 the E.T.A. of vessels arriving.

30 Q When passing the information to



1 vessels as regards their position --

2 A Only as far as safety.

3 Q How do you proceed then to pass on in-
4 formation as far as safety?

5 A We have had vessels arriving up the
6 harbour in fog, the radar broke, and they have asked
7 for approximate positions, and we have passed that on,
8 that to the best of our knowledge they are so many
9 miles off --

10 Q In the past what did you do?

11 A That is what we have done in the past.

12 Q Let us say for the forthcoming season,
13 what do you plan to do?

14 A There being no harbour control, so many
15 things do crop up as far as safety, that I hesitate to
16 say what we will do, but anything we can tell them we
17 certainly will. We don't attempt to navigate vessels
18 through the harbour, if that is what you mean.

19 Q Have you received comments on the part
20 of masters of vessels or pilots with respect to the
21 information you supply?

22 A We have received numerous comments on
23 all the information we supply, sir.

24 Q What is the concensus of opinion of that
25 system?

26 A This is one of the best ports to enter
27 in the Great Lakes.

28 Q But with respect to your passing on in-
29 formation obtained from your radar, were people happy
30 with it, do they rely on it?



1 A No, sir, they don't. I don't think any
2 ship master relies on radar information that is given
3 to him from an outsider. It is just an aid. Most
4 masters view their own radar a little dubiously
5 anyway.

6 Q It is reported to be an aid, but is it
7 in fact an aid? Do you find it helpful? Does it
8 serve a purpose?

9 A It serves its purpose, yes.

10 Q Did it allow ships to enter the harbour
11 or proceed in safety when otherwise they would not have
12 been able to do so?

13 A No. It has enabled our pilot to find a
14 vessel anchored outside, which they would have been un-
15 able to do without our information, and we have
16 directed them, but we certainly do not direct ships in.

17 Q Your pilot boat is not equipped with
18 radar?

19 A No, sir, she is not.

20 Q Now, mention has been made, or an al-
21 legation has been made that you have refused ordinary
22 amenities to lake pilots. Would you be able to indi-
23 cate to me which ordinary amenities you have refused?

24 A I would like them to be indicated to me.

25 Q Pardon?

26 A I would like them to be indicated to me
27 because to the best of my knowledge we have never re-
28 fused any amenities. They have used the telephone,
29 they have used our teletype; we even keep Gray Coach
30 schedules and railway schedules in our office for their



1 use because we don't do much travelling during the
2 season, and I myself have at two o'clock in the morn-
3 ing run a pilot up to the Gray Coach bus station so
4 he could catch his bus.

5 We call them at the hotels at which
6 they stay upon the request of Port Weller, and as far
7 as I am concerned, and I know there would be drastic
8 action taken if we found anybody in the office that
9 had been argumentative to them or tried to refuse them
10 any facility.

11 Q In the course of your duties as harbour
12 master, have you noticed any difference in the standard
13 of performance between Canadian and American pilots?
14 It has been said before this Commission that some
15 people were dissatisfied with the local knowledge
16 which American pilots are purported to have.

17 A. I think there was a difference two or three years ago,
18 sir, but in the last season I honestly couldn't say.

19 Q One is just as competent as the other?

20 A I think it was a new dock to them in
21 the beginning.

22 Q Have you received comments from your
23 pilots on the difficulties of handling deep sea ships
24 as opposed to lakers?

25 A No, sir.

26 Q Have you handled lakers?

27 A No, sir. Both the pilots have been
28 handling deep sea ships for five years, so they
29 wouldn't be passing comments on them now to me.

30 Q Do you use landing booms at any time



1 to land ships' linesmen on the dock here?

2 A Yes. Here in Toronto?

3 Q Yes.

4 A No, sir. The only vessels using that
5 in Toronto are a few of the small ships, and they as a
6 rule don't carry a pilot.

7 Q Coming back to the pilot boat is she
8 equipped with ordinary safety appliances?

9 A Oh yes, sir. At the beginning of the
10 Seaway, Captain Scott, the owner of these boats,
11 equipped them just as required by the Department for
12 pilot boats.

13 Q Did you check if she has necessary
14 certificates on board?

15 A I imagine the steamship inspector
16 would do that.

17 Q Did you?

18 A No sir, not with those particular boats.

19 Q Do you know how many passengers she
20 is licensed to carry?

21 A I don't know from my own experience,
22 sir.

23 MR. JACQUES: Thank you, sir.

24
25 CROSS-EXAMINATION BY MR. LALONDE:

26 Q Are you sure that the larger lakers do
27 not use landing booms in Toronto Harbour?

28 A No. I was asked whether I had used
29 landing booms in Toronto Harbour. The master of the
30



1 lakers use landing booms. I was referring to overseas
2 vessels.

3 Q I noticed that you have a special notice
4 to mariners, Toronto Harbour. That is No. 163, and it
5 contains instructions to ocean-going vessels in a light
6 condition. You require I think, or you did require in
7 1961, ocean vessels loaded with metal in the ship channel
8 of the port to have an average draft of 15 feet or more
9 at the risk of being required to go to anchor.

10 Is this notice still in effect?

11 A It is sir, still in effect, yes.

12 Q Would you elaborate on this because a
13 request for similar notice has been asked by pilots.

14 A Well, we were getting quite a lot of
15 vessels loading scrap down in the turning basin,
16 necessitating going through the ship channel bridge,
17 and we are finding they arrive here flying light; the
18 old time Liberties which we have, minus draft forward,
19 and flying very light.

20 It was quite difficult to get them down
21 the ship channel with any wind blowing across, so we
22 did ask for that notice to be promulgated. We have
23 actually had very little success getting them down to
24 15 feet, but there has been a little improvement.

25 Q The difficulty is because of the wind;
26 the effect of wind on light vessels?

27 A. Going through the bridge.

28 Q Did you ever put into effect the threat
29 and require them to go to anchor?

30 A No, sir.



1 Q Do you know if you have power under
2 your regulations or Act to put such limitations on
3 vessels in the Toronto Harbour? Would you know about
4 that?

5 A No, not as far as the Act is concerned.

6 Q If a vessel asked for information
7 through radio-telephone, does this go to your own
8 office personally, or is it done by one of your em-
9 ployees in another office or what?

10 A Up to the end of last season we were
11 all combined in the one space. Our office, the Harbour
12 Master's office was partitioned off, but you could hear
13 everything that was going on. You were available for
14 information at any time.

15 MR. LALONDE: Thank you.

16 MR. JACQUES: Q My Lord, I should
17 like to ask one more question. Have any of your pilots
18 ever been involved in any casualties or accidents
19 while piloting a ship?

20 A The ones mentioned here that we referred
21 to, there has been harbour pilots on them.

22 Q This covers damage to port installations,
23 but there may have been a collision right in the centre
24 --

25 A We have had no collision, sir, in the
26 harbour, sir.

27 THE CHAIRMAN: Are there any further
28 questions?

29 COMM RENWICK: One simple question of
30 general interest: how long is that western channel,



1 and how long is the air strip?

2 THE WITNESS: The new runway is 4,000
3 feet here (indicating). That was one reason why we
4 moved our anchorages in the inner harbour down to the
5 south here. The south wall of the west gap is approxi-
6 mately 4,000 feet.

7 MR. ESTEY: I have one or two questions
8 that do not arise from anything we have presented.
9 First of all, the witness knows nothing of his personal
10 knowledge of one item which I would ask leave of the
11 Commission to refer to.

12 Questions were asked about moving a
13 tanker down from Toronto to Clarkson. This was the
14 subject of exchange of correspondence between the
15 harbour master and Mr. Cumyn, director of marine
16 regulations, Department of Transport, back in the Fall
17 of 1962.

18 Now, rather than read the whole length
19 of this into the record, may I excerpt from the three
20 documents which relate to it? First of all, the letter
21 from the Department of Transport, 7th of November,
22 1962, part of which is devoted to this and part to
23 something else.

24 "We have also received a report
25 from Port Weller to the effect that Captain
26 Livingstone acted as a registered pilot on
27 the tanker LEONIDAS from Toronto to Clarkson
28 on July 23, and from Clarkson back to Toronto
29 Fairway Buoy, and the LEONIDAS did not have
30 a B certificate on board."



1 Then there was an investigation con-
2 ducted by the General Manager, and he received a report
3 from the harbour master's office saying that there was
4 a lake pilot on the LEONIDAS when Captain Livingstone
5 boarded her at 1255 hours, July 23, at Clarkson, and
6 again he had been requested to go on board in an ad-
7 visory capacity.

8 "Our pilots will not move a vessel
9 when they know no officer on board is in
10 possession of a B license."

11 Following that report to the General
12 Manager, Mr. Griffith then wrote to the Department
13 reporting the picture as I have read it from the
14 internal report, and concluding, "We deny completely
15 the allegations made by Port Weller that Captain
16 Livingstone in any manner whatsoever acted as regi-
17 stered pilot for this or any other ship when he has
18 been in the employ of the Toronto Harbour Commissioner."

19 THE CHAIRMAN: Would you quote the file
20 number?

21 MR. ESTEY: The file number of the letter
22 of the 7th of November, 1962, My Lord, is 8500-57-2.

23 Now, we are not quick to find our honour
24 wounded, but this matter has been hanging around two
25 years, and we thought we should kill it now before this
26 Royal Commission. It originated with a comment from
27 the Lakehead which says they think they are doing some-
28 thing wrong down in Toronto.

29 It all wound up with the report which I
30 read Your Lordship, and that was the end of it as far
as we knew until now.



Q. There are one or two other things,

Captain, while you are available. I believe this is not german to our case, but the point has come up. I believe there have been some difficulties between the human beings who are licensed as lake pilots and the human beings who staff the office of the Harbour Commission, the Harbour Master's office, which I do not suppose is unusual.

I am showing you some reports in this connection which might refresh your memory of the kind of problem you have, which perhaps will explain how the rumours get abroad.

First of all, I am showing you a report from the Harbour Master's office 17th August, 1963, the motor vessel Zeeland, August 17th, 1963. Do you see it?

A Yes.

Q Have you seen that before?

A Yes.

Q Without going through this whole thing in detail, this relates to the question of charges; is that right?

A Yes.

Q A pilot by the name of Strong -- who is he?

A He was an American lake pilot last year.

Q Would you read to His Lordship and the Commissioners the last two paragraphs?

A "After berthing the vessel at Pier No. 24, Pilot Strong called me at 8:00 a.m. on Monday, August 19th, requesting advice re



1 a vessel outbound and also that we teletype
2 Port Weller and Cape Vincent to arrange
3 authority for him to board one. When I ad-
4 vised him that no vessel was departing soon,
5 he said that he would go to Port Weller or
6 possibly Kingston and requested the times of
7 departure of buses and trains.

8 On receiving this information he
9 asked us to order a taxi for him."

10 Q Then there is some editorial comment
11 which would just put some gasoline on the fire, so per-
12 haps we will leave that off.

13 I am showing you another incident --

14 MR. LALONDE: Was this report written by
15 Captain Mann?

16 MR. ESTEY: No; it is part of the records
17 of the office.

18 Q Do you have knowledge of that episode?

19 A Yes.

20 MR. LALONDE: This is a report made to
21 Captain Mann?

22 MR. ESTEY: Q What can you say as to
23 where these reports come from? These are all Harbour
24 Master's office reports. What is the procedure?

25 A Any report on anything like this would
26 either come through somebody in the office who was on
27 duty at that time.

28 Q This one is the same kind of thing,
29 dated June 11th, 1963. Perhaps you could read that?

30 A "8:30 June 11th, 1963, Canadian Lake



1 Pilot Captain Dufour came into this office
2 with Pilot F. Robinson ex motor vessel Flo.
3 He requested us to ask Port Weller if they
4 had a vessel for him. Port Weller said they
5 had four vessels downbound and no lake pilots.

6 We advised Pilot Captain Dufour;
7 he asked us what he was supposed to do. We
8 advised him he could make his own decision.
9 We then called and checked his time via bus
10 to St. Catharines, which was twelve noon. He
11 left this office at 8:40 a.m. somewhat dis-
12 gruntled because we could not decide for him
13 whether or not he should go to St. Catharines."

14 Q Another question arose, to change the
15 subject, on this question of vessels getting the wrong
16 times for their arrival reported to you or being lost
17 out on the lake or delayed. I am showing you something
18 which you might comment upon as to whether it is an
19 example of this kind of thing.

20 It is another Harbour Master's office
21 report dated August 28th, 1963 and this deals with the
22 motor vessel called Moormacoak. It involves the
23 Canadian Navy, I see?

24 A Yes.

25 Q What was the effect of that episode?

26 A It got the Navy mad with harbour control
27 for one reason. I just do not understand what you
28 mean by the effect.

29 Q It is a little long and I do not wish
30 to waste the time of these gentlemen.



1 A Do you want me to summarize it?

2 Q Yes.

3 A A vessel by the name of Moormaccoak,
4 called in by radio and said he was ten minutes off the
5 Fairway Buoy. He was actually half an hour off. On
6 the basis of his statement that he was ten minutes off
7 the Fairway Buoy we held the H.M.C.S. Sioux, which had
8 requested permission to leave, inside the harbour.

9 When it came from ten minutes to over
10 half an hour the Commander of the Sioux complained
11 bitterly that it was our fault for keeping him in there,
12 while we were going by the information passed to us by
13 the pilot.

14 Q This was before you had the radar
15 facility?

16 A The radar would not necessarily be on.

17 Q This was in the middle of the night; the
18 radar was not on?

19 A The berthing master was there.

20 Q There is one other subject which was
21 touched upon. In these regulations there was mention
22 made of the requirement to have a pilot on board unless
23 the master requests the pilot and the Deputy Minister
24 of Transport informs him that there is no registered
25 pilot available.

26 You are familiar with that procedure?

27 A Yes.

28 Q Does that happen?

29 A It has happened several times over the
30 past few seasons.



1 Q In that case if the ship were in Cape
2 Vincent, what would he do?

3 A They have given him permission to pro-
4 ceed on his own.

5 Q When they come to your harbour what
6 happens?

7 A Some of them have requested a harbour
8 pilot and some have not.

9 MR. ESTEY: Thank you.

10 THE CHAIRMAN: Are there any further
11 questions of Captain Mann?

12 MR. JACQUES: No, My Lord.

13 THE CHAIRMAN: Thank you, Captain. We
14 will now break for a few minutes.

15 ---SHORT RECESS
16

17 BRADLEY GUEST, sworn

18 DIRECT EXAMINATION BY MR. ESTEY:
19

20 Q Mr. Guest, you are a Professional
21 Engineer?

22 A Yes, sir.

23 Q And a member of the staff of the Toronto
24 Harbour Commissioners?

25 A Yes.

26 Q Where did you graduate in Engineering?

27 A The University of Toronto.

28 Q When did you graduate?

29 A 1955.

30 Q What type of engineering did you graduate



1 in?

2 A Civil.

3 Q Civil Engineering?

4 A Civil Engineering.

5 Q How long ago did you join the staff of
6 the Toronto Harbour Commissioners?

7 A It would be six years ago this July.

8 Q What division or department do you work
9 in?

10 A Engineering Department.

11 Q In the course of that work in the
12 Engineering Department I take it you are familiar with
13 the dredging operations carried on in Toronto Harbour?

14 A Yes.

15 Q You have in front of you a report dated
16 November 27th, 1964, the first page of which is headed
17 "Siltation and dredging in Toronto Harbour." Can you
18 see that?

19 A Yes.

20 Q Was this prepared in the Engineering
21 Department with the attached map, or the Drafting
22 Department?

23 A Yes.

24 MR. ESTEY: I would like first of all
25 to have that identified as an exhibit.

26
27 ---EXHIBIT NO. 1120: Report, dated November
28 27th, 1964, prepared by
29 the Toronto Harbour
30 Commissioners with attached
map.



1 Q Mr. Guest, let us deal with this report
2 one page at a time. So far as the first page is con-
3 cerned we see the sub-heading, "The Areas, Extent,
4 Causes & Recurrence of Silting & Sedimentation."

5 Generally, can you describe what this
6 report sets out, first of all as regards the Keating
7 Channel? Perhaps before you answer that I will spread
8 the map out in front of you.

9 Mr. Chairman, this map is a small-scale
10 replica of the large map, 1114.

11 THE CHAIRMAN: That is the one already
12 filed as 1119, is it?

13 MR. ESTEY: 1114, My Lord.

14 THE CHAIRMAN: We just filed one show-
15 ing the anchorages.

16 MR. ESTEY: Yes, it is the same map.

17 First of all, Mr. Guest, the Keating
18 Channel, which is the first item on page 1 of this ex-
19 hibit, is found on the map generally in what part?

20 A The northeast corner of the Harbour
21 itself.

22 Q What do you say on your report about the
23 dredging in the Keating Channel?

24 A In the Keating Channel we dredge approxi-
25 mately 150,000 cubic yards a year. It is mainly silt
26 that is carried down the Don River into the northeast
27 corner of the Harbour through the Keating Channel, and
28 it is a continuous operation. The silting is a continu-
29 ous problem.

30 Q Items Nos. 2, 3, 4, 5 and 6 deal with



1 various areas in the Harbour. Can you describe
2 generally the kind of dredging that is done in those
3 areas?

4 A Yes. Item No. 2 is really an extension
5 of the Keating Channel problem. The silt which has
6 not settled out in the channel carries on into the
7 northeast corner of the Harbour and roughly 75,000 cubic
8 yards a year are dredged out of this area for the same
9 reasons as in Item 1.

10 Items 3, 4 and 5 total approximately
11 15,000 cubic yards a year. This material comes from
12 the sewers in the City, the storm sewers, and it is
13 mainly industrial waste and granular materials from the
14 streets that get washed into the sewer system.

15 Q The dredging in the items described 1 to
16 6 in the left-hand column on the first page is carried
17 out by whom?

18 A It is carried out normally by the Toronto
19 Harbour Commissioners Works Division of the Engineering
20 Department.

21 Q Just as a matter of interest what do you
22 do with this silt and whatever else you take out of
23 that area? Do you make re-claimed land out of it?

24 A No. It is loaded into bottom dump scows
25 and hauled out into the lake and dumped in the lake.

26 Q In Items 7 and 8, that dredging I see by
27 your report is done by the Department of Public Works.
28 Is that of Canada or Ontario?

29 A Of Canada.

30 Q What is the source of the drifting in



1 those two items?

2 A This material comes primarily from
3 littoral drift and wave action and storm action outside
4 the Harbour. It silts in across the entrances to the
5 channels.

6 Q And those two channels are dredged out
7 annually, the ends of them, where you have indicated
8 7 and 8 on the map?

9 A Not 8.

10 Q What about 7?

11 A It is done annually. No. 8 is done once
12 in four or five years on the average, I would think.

13 Q On page 2 the sub-heading is: "The
14 Quantity and Location of Maintenance Dredging Done Over
15 the Last Two Years." That I take it is in amplification
16 of the detail of page 1 again. For example the Keat-
17 ing Channel would indicate you have done more dredging
18 in 1963 than 1962. Is there any particular reason for
19 that, Mr. Guest?

20 A Actually, the figures are a little de-
21 ceiving there. We did more in the Keating Channel --
22 that is, inside the Keating Channel Bridge last year
23 than we did the year before. But you will notice the
24 northeast corner of the Bay was quite high in 1962,
25 which is just outside the Keating Channel Bridge.

26 Items 1 and 2 are really from the same
27 source.

28 Q All right. In connection with your
29 dredging operations did you perform any hydraulic or
30 hydrographic surveys to determine the dredging required



1 and the extent of dredging you will do in each parti-
2 cular year or season?

3 A Yes, we do.

4 Q Do you do that in conjunction with the
5 Department of Public Works?

6 A We do work with the Department and with
7 the Ontario Water Resources Commission.

8 Q That is the Provincial Commission?

9 A Yes.

10 Q Generally in dealing with the harbour
11 area what are the sources of silting that you are con-
12 tending with?

13 A Primarily the Don River and the sewer
14 outlets and outside in the channels, the eastern and
15 western channels, it is what we call littoral drift.

16 Q What is the extent of the interference,
17 if any, between your dredging operations and the navi-
18 gation in the Harbour?

19 A We can be dredging in areas where there
20 are movements of vessels and this can cause safety
21 problems, when one has to move, or both are moving.

22 MR. ESTEY: Thank you.

23 MR. LALONDE: No questions, My Lord.

24 CROSS-EXAMINATION BY MR. JACQUES:

25
26 Q In terms of accumulation of inches of
27 material over a period of one month or over a period of
28 a season, what does it represent?

29 A That is very difficult to answer because
30 it varies depending on the location.



1 Q The worst part?

2 A The worst part? I have seen it come up
3 in the Keating Channel, which is not used for shipping
4 right now, as much as six or eight feet overnight.

5 Q What about in the most frequented areas
6 of the Harbour -- with reference to commercial shipping,
7 mind you?

8 A It would be relatively small -- maybe a
9 foot or two a year.

10 Q A foot or two a year?

11 A In isolated locations.

12 MR. JACQUES: Thank you.

13

14

15

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1 MR. BRISSET: Did you carry out surveys
2 to determine silting on regular occasions or is that
3 done once a year?

4 A Within the Harbour it is a continuous
5 thing. We do soundings regularly, particularly in the
6 critical areas, and we also do sweeping of the area
7 along the dock wall where you are liable to have ob-
8 structions of various kinds.

9 THE CHAIRMAN: Any other questions?

10 Thank you, very much.

11
12
13 ALBERT PYE, Manager Furness Withy
14 & Company Limited

15 DIRECT EXAMINATION BY MR. ESTEY:

16 Q Do you live in the City of Toronto, Mr.
17 Pye?

18 A Yes.

19 Q Do you work in the City of Toronto?

20 A Yes.

21 Q You have told us you are a shipping agent
22 for Furness Withy and I understand you also are the cur-
23 rent chairman of the Great Lakes Deep Sea Committee?

24 A That is right.

25 Q Of the Shipping Federation of Canada.
26 Is that right?

27 A Yes, that is right.

28 Q You have heard some of the evidence here
29 today, Mr. Pye. I think you are familiar with the issue
30



1 and subject being discussed. Let me move directly to
2 it. We have heard, I am going to ask you for your com-
3 ments, about the owners of ships utilizing the Port of
4 Toronto engaging the services or using the pilot services
5 offered on a voluntary basis by the Port of Toronto.

6 Are you familiar with that?

7 A Yes, this is right.

8 Q Could you tell the members of the Royal
9 Commission why the shipowners made use of the voluntary
10 service?

11 A For economic reasons and to facilitate
12 the handling of the ships.

13 Q I take it from that that it is perhaps
14 amongst other things a question of time?

15 A Yes, that is right.

16 Q Generally how do you make use, how do
17 you utilize -- let us put it this way: how do you ar-
18 range to have a pilot available?

19 A We call the Toronto Harbour Commissioner.

20 Q The shipping agent usually does that?

21 A Yes.

22 Q You know in advance where the ship is
23 and when it will come in. You tell me that?

24 A Yes, that is it.

25 Q Do you make arrangements to transport
26 the pilot out to the vessel?

27 A Yes.

28 Q With the Waterman's Service?

29 A Yes.

30 Q Your association comprises, I take it,



1 the shipping company members?

2 A Yes, that is right. When you say
3 "shipping company members" you mean agents like ourselves?

4 Q Yes.

5 A Yes, that is right.

6 Q Does it represent most of the agents or
7 all of the agents?

8 A The largest percentage of them in Toronto.

9 Q I want to ask you something which I don't
10 expect you can answer in an exact way. Could you indi-
11 cate to His Lordship what proportion or part your member-
12 ship who represent ships coming into the City, into the
13 Harbour, would make use of this service?

14 A I would think a large portion would
15 make use of it.

16 Q The majority?

17 A I would say the majority, yes.

18 Q And finally do the shipping agents,
19 representatives of the owners, wish this service to be
20 continued in the future?

21 A Yes, definitely.

22 MR. ESTEY: Thank you.

23 COMM SMITH: Are you completely satis-
24 fied with the service?

25 THE WITNESS: Yes, we are.

26 COMM SMITH: You have no complaint?

27 THE WITNESS: None whatsoever.

28 MR. LALONDE: No questions.

29

30



1 CROSS-EXAMINATION BY MR. BRISSET:

2
3 Q We were told that in 1960 before the
4 Toronto Harbour Commissioners set up their own pilotage
5 service there was a pilotage service organized to serve
6 ocean vessels in the Harbour of Toronto. Could you tell
7 us a little more about this service, how it was organi-
8 zed and how it worked within that season?

9 A Well, I don't know whether you can ex-
10 actly say it was organized. Just from memory -- Captain
11 Livingstone set himself up as a pilot in the Port of
12 Toronto and we dealt with him directly.

13 Q Was Captain Livingstone known to you and
14 to the other agents, members of your association?

15 A To myself personally but he was known to
16 other members, yes.

17 Q And how did the system work during that
18 year? Could you give us a brief outline of how Captain
19 Livingstone operated? Let us assume that you had a ship
20 coming into Toronto from Kingston and that the Harbour
21 Pilot, Captain Livingstone, would be required. How is
22 the matter arranged with the pilot? Would that be done
23 through the agent?

24 A It was done by the agent directly with
25 Captain Livingstone as far as I remember.

26 Q How would the agent know that the ship
27 or the master of the ship was desirous of using a harbour
28 pilot?

29 A The Captain would inform us.

30 Q From where?



1 A From the Seaway, around Snell, he gives
2 us the E.T.A. and advises he wishes a harbour pilot.

3 Q That was done by radio-telephone or by
4 what means?

5 A By radio-telephone when it was available
6 or by telegram.

7 Q So you would get this advice from the
8 master of the ship, that is the E.T.A., and you would
9 communicate directly with Captain Livingstone and give
10 him his orders. Is that correct?

11 A Yes, that is right.

12 Q Who was providing the pilot boat service
13 at the time?

14 A If I recall correctly Waterman's Services,
15 the same party as is providing it now.

16 Q In other words, the organization insofar
17 as the service was concerned was pretty well the same
18 as when it was taken over later on in 1961 by the
19 Harbour Commission?

20 A Yes, this is so.

21 Q It was the same pilot that went over to
22 the Commission?

23 A Yes.

24 Q Now during the year that Captain
25 Livingstone had this pilotage service in 1960 were the
26 agents satisfied with the way it was operated?

27 A As far as it went then I would say yes.

28 Q Now, did you find an improvement the fol-
29 lowing year when the Commission took over?

30 A I believe that I could say "Yes". It



1 simplified matters.

2 Q In other words, you got a better service
3 organized, as it were, later on by the Harbour
4 Commission?

5 A Yes, this is true.

6 Q We have been told, Mr. Pye, in earlier
7 testimony that double pilotage at times has been paid
8 when both a harbour pilot and a lake pilot or trans-
9 lake pilot was aboard a ship coming, for instance,
10 into Toronto. Have you had this experience?

11 A Not personally, no, because the accounts
12 go to Montreal Office. I understand this has been a
13 fact.

14 Q Has there been any representation made
15 to the authority in respect to this particular
16 problem?

17 A I couldn't say, sir, but I imagine that
18 there would have been.

19 Q But you have not been involved?

20 A Personally, no.

21 Q When there is a lake pilot on board
22 coming to Toronto for instance, an inbound ship what
23 is the procedure which you follow insofar as pilotage
24 in the Harbour is concerned?

25 A We will ask the Master if he requires
26 a harbour pilot. We order the pilot or don't order
27 the pilot.

28 Q Generally what is the decision of the
29 Master in these circumstances?

30 A As a rule they ask for a harbour pilot.



1 Q And do you always follow the Master's
2 advice or comply with his request, or do you in any way
3 interfere with his decision in this respect?

4 A We don't interfere. We just follow out
5 his instructions.

6 Q Have you been told by the Masters who do
7 request a harbour pilot when they already have on board
8 a trans-lake pilot why they wanted a harbour pilot?

9 A No, not directly, no.

10 Q Has this topic ever been discussed be-
11 tween you and masters of vessels?

12 A Not particularly, no.

13 CROSS-EXAMINATION BY MR. JACQUES:
14

15 Q Sir, in reply to the question by my
16 learned friend you said that you used harbour pilots
17 for economic reasons and that it was also a question of
18 time. Would you further elaborate on that?

19 A Yes, I think I can. When a ship is
20 coming in you know the Master and as far as you know he
21 is qualified to take the ship around anywhere in the
22 World, but if they are coming for a starting time, eight
23 o'clock, one o'clock in the afternoon or six o'clock at
24 night, although the Master may be qualified to bring
25 the ship in he can probably do that with a pilot on
26 board with local knowledge more quickly, instead of
27 being half an hour late or fifteen minutes late with a
28 gang standing by.

29 With a pilot on board he could arrive
30 and have the gang go to work on time.



1 Q Is that reason valid also when there is
2 a trans-lake pilot on board?

3 A I am afraid I can't answer that.

4 MR. ESTEY: I wonder if he understands
5 what you are getting at.

6 MR. JACQUES: Q You said a moment ago
7 most of the masters requested the harbour pilot. Is
8 that correct?

9 A Yes.

10 Q I believe you also answered "Yes" when
11 you were asked whether they would take a harbour pilot
12 even though they have a pilot on board already, a lake
13 pilot?

14 A Yes.

15 Q What is the reason for taking a harbour
16 pilot if you already have a lake pilot on board who is
17 officially supposed to be qualified and as competent
18 as the harbour pilot?

19 A I am sorry, that is a technical question.
20 I am afraid I can't answer that.

21 CROSS-EXAMINATION BY MR. LALONDE:
22

23 Q You had mentioned the question of delay.
24 How much would it cost to delay a ship, one of your
25 ships, let us say, an hour when you have a gang ordered?
26 What money would that represent?

27 A It may not be one gang. It may be five
28 gangs or six gangs. A gang costs roughly \$60 an hour.

29 Q For the people waiting on the dock that
30 would represent a substantial amount of money?



1 A Yes, definitely.

2 THE CHAIRMAN: That is the stevedores
3 and linesmen?

4 THE WITNESS: Yes, there would be lines-
5 men as well.

6 THE CHAIRMAN: Any further questions of
7 Mr. Pye?

8 Thank you very much, Mr. Pye.

9 MR. ESTEY: Finally, My Lord, we have
10 one of the port pilots available, Captain Robinson.

11 ---

12
13 FREDERICK ALEXANDER ROBINSON,
14 (aged 57, Toronto Harbour Pilot,
15 166 Jamieson, City of Toronto)
16 Sworn.

17 DIRECT EXAMINATION BY MR. ESTEY:

18 Q Captain, how long have you been in the
19 marine navigation business?

20 A Since 1924.

21 Q How did you start, and where?

22 A I started as a deckhand and worked up
23 as master.

24 Q Where did you start? What part of the
25 World, Canada or England?

26 A In all the Great Lakes and down the
27 Coast.

28 Q When did you become a master?

29 A Back in 1938.

30 Q And where were you sailing at that time?



1 A In the Lakes.

2 Q So you have spent most of your time for
3 the last forty years in the Lakes?

4 A Yes. I have been down the Coast in that
5 time.

6 Q And also in the coastal waters?

7 A That is correct.

8 Q When did you first take up piloting?

9 A Seven years ago.

10 Q And were you a licensed or registered
11 pilot then?

12 A I was a registered pilot six years ago.

13 Q Under the Department of Transport?

14 A The Department of Transport.

15 Q Where did you work?

16 A Duluth to Cape Vincent, including Lake
17 Michigan.

18 Q At one time or another you moved around
19 in that area?

20 A That is correct; I was in District 2.

21 Q When did you join the Toronto Harbour
22 Commissioners' staff?

23 A Two years ago this Spring.

24 Q How did you happen to join the employ
25 of the Harbour Commissioners?

26 A Well, as I lived in Toronto it was, I
27 figured, a better position.

28 I could be right at home all the time.

29 Q You applied for the job, did you?

30 A That is right, I applied for it.



1 Q What I was getting at is, nobody came
2 to you and recruited you. You made application for
3 the job?

4 A That is correct.

5 Q And in due course you were hired, and
6 when did you start?

7 A Two years ago this April.

8 Q Two years ago right now?

9 A Yes.

10 Q That would be the shipping season of
11 1962?

12 A Yes.

13 Q You worked as a pilot in the Port of
14 Toronto throughout the 1962 shipping season?

15 A Yes, I have.

16 Q What about 1963?

17 A 1963 I was with the Port of Toronto.

18 Q Now, without taking the time of the
19 Commission unduly here on matters which we may have
20 covered anyway, when you are in the peak of the season
21 in the Port of Toronto as a pilot how do you work? Do
22 you go out on boats all the time, on a shift, or stay
23 at home? What happens?

24 A We work twelve-hour shifts and in the
25 evening we pretty well know the ships that are coming.
26 We go down ahead of time, down to the office.

27 Q When you are in the office are you in
28 contact by communication procedure with the ships
29 coming in?

30 A That is correct.



1 Q Does the Harbour Master maintain a ship-
2 ping programme so you can see the arrivals?

3 A The shipping programme is on the board
4 at all times.

5 Q We have heard that you get out to the
6 ship you are going to pilot in in the Waterman's tug.

7 A That is correct.
8
9
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30



1 English

2 Q. We have heard you get out to the ship
3 you are going to pilot in the Waterman's tug?

4 A. That is correct.

5 Q. Have you had any experience of not being
6 able to get on one of these ships when you have been
7 ordered to?

8 A. Yes, I have.

9 Q. How did that come about?

10 A. The lake pilot apparently didn't slow
11 down. That was his excuse.

12 Q. You can't get on when the --

13 A. Not when they are going at that rate.

14 Q. How many other port pilots were there?
15 Let us take in 1963, last year?

16 A. There were two pilots there. Captain
17 Livingstone and myself.

18 Q. You and Captain Livingstone?

19 A. Yes.

20 Q. One thing I want to ask you, when you
21 ceased to work in Port Weller, Pilotage District #2,
22 did you surrender your licence which you had from the
23 Department of Transport?

24 A. Yes, they asked me for my licence, for
25 just my pilot's licence.

26 Q. Not your --

27 A. Not my Master's licence. We hold that
28 always.

29 Q. But your pilot's licence was surrendered?

30 A. That is right. Registered pilot's



1 English

2 licence.

3 Q. So that you don't now hold a registered
4 pilot's status?

5 A. That is correct.

6 Q. Do you consider yourself competent now
7 to pilot vessels in this area?

8 A. I would figure more so.

9 Q. What kind of vessels have you piloted
10 into the Toronto harbour in the last two seasons?
11 What are they?

12 A. They are all deep sea ships.

13 Q. Any unusual vessels? Just routine?
14 They are all the same?

15 A. Well, from the PRINCESS IRENE to the
16 biggest ocean ship coming into the harbour.

17 Q. Did you handle them all?

18 A. That is right.

19 Q. Just to change the subject to the
20 question of pay, and I do not wish to inquire from
21 you what your remuneration is, but how are you paid?

22 A. We are paid monthly.

23 Q. And the season we know is eight months.
24 Are you paid for eight months or twelve months?

25 A. We are paid twelve months. Twelve
26 months season.

27 Q. Is your pay subject to all the usual
28 deductions?

29 A. That is correct.

30 Q. Unemployment insurance, you are under



1 English

2 that, and hospitalization, pension, tax deductions and
3 so on?

4 A. Yes.

5 Q. As far as you know you are paid like
6 the rest of the Harbour Commission?

7 A. Yes.

8 Q. What happens to you when you have no
9 licence if the Toronto harbour becomes a compulsory
10 pilotage area?

11 A. Well, that is a thing that is a little
12 insecure. That is the fear we have.

13 Q. I would like to ask you a question on
14 that subject, but I want to tell you before I ask
15 you that this is a federal Royal Commission, and you
16 are not answering me; you are answering His Lordship
17 and this Commission. What is your feeling about your
18 work and your working conditions in the Toronto harbour
19 now?

20 A. My feeling, the working conditions are
21 fine, but the insecurity is what I am worried about.

22 Q. Do you know if Captain Livingstone is
23 going to be available this season?

24 A. No. I believe he has sent in his
25 resignation to take a permanent job.

26 MR. ESTEY: Thank you.

27 COMMISSIONER SMITH: My Lord, I would
28 like to ask the witness a question or two. Captain,
29 you have had a lot of experience in the inland waters
30 and coastal waters too. I asked this question of the



1 English

2 Harbour Master this morning about radar, and we have
3 had considerable evidence in the various places where
4 we have held our hearings about the radars on some of
5 the ships not being in proper order, not being
6 properly maintained, and on that account not rendering
7 a service that they otherwise would if they were in
8 good shape.

9 What is your experience in connection
10 with the radar sets on the ships that you pilot?

11 THE WITNESS: Well, I would say 90% of
12 the radars were in shape or working, but then the ones
13 I couldn't mention right off hand weren't, but there
14 were a few that were not working.

15 COMMISSIONER SMITH: That is not
16 necessary. You make good use of them?

17 THE WITNESS: Definitely.

18 COMMISSIONER SMITH: You would not want
19 to, and correct me if I am misstating anything, you
20 would not want to pilot ships without radar in these
21 days?

22 THE WITNESS: Well, in these days, no,
23 but I was schooled without radar.

24 COMMISSIONER SMITH: Yes, of course.
25 All right, thank you, Captain.

26 MR. LALONDE: No questions.

27

28 CROSS-EXAMINATION BY MR. BRISSET:

29 Q. Captain, you started pilotage, I think
30 you said, seven years ago?



1 English

2 A. Yes, that is correct.

3 Q. That was in 1957?

4 A. 1957.

5 Q. You were a sailing Master then?

6 A. Yes.

7 Q. In 1958 did you work in the Port Weller-
8 Sarnia District?

9 A. Yes, I did.

10 Q. When the Shipping Federation organized
11 that District?

12 A. That is correct.

13 Q. Do you remember when you joined the
14 roster?

15 A. Not definitely, I couldn't say the
16 date.

17 Q. Was it the beginning of April?

18 A. In May, I believe.

19 Q. In the following year, in 1959, when
20 the Canadian government took over the Port Weller -
21 Sarnia District, which was not yet District #2, did
22 you stay and work in that District?

23 A. That is correct.

24 MR. BRISSET: Thank you.

25

26 CROSS-EXAMINATION BY MR. JACQUES:

27 Q. Captain, when is most of your work
28 done? Is it at night or during daylight hours?

29 A. It is 24 hours a day.

30 Q. Yes, but you pilot ships more often at



1 English

2 night than you do during the day?

3 A. No, not necessarily.

4 Q. Would it be half and half?

5 A. As many at night as in the daytime.

6 Q. What is the main hazard in entering
7 Toronto harbour? Is there any definite current you
8 must guard against?

9 A. Yes, there is.

10 Q. Where?

11 A. Where, in the harbour?

12 Q. Well, at the entrance.

13 A. At the entrance is correct.

14 Q. Does it flow across the entrance?

15 A. It would flow different directions.

16 All depends on the wind, when the wind shifts.

17 Q. How strong is it?

18 A. Well, that all depends on the wind.

19 Q. You usually predict this trend of the
20 current?

21 A. Yes, we pretty well judge the current.

22 Q. What guides you when you enter? Is it
23 range lights?

24 A. We have range lights and lighted buoys.

25 Q. So before you make the channel you
26 know pretty well what the set of drift is?

27 A. That is correct.

28 Q. Through range lights and buoys?

29 A. Yes, and going out on the pilot boat
30 we see which way the current is going.



1 English

2 Q. How many hours a week are you on stand-by?

3 A. On standby? Well, I never figured that
4 one out.

5 Q. How many hours a week do you work?

6 A. We work seasonal. We didn't bother
7 figuring that one out. Some days we may work four
8 hours and other days we may work eight hours or ten
9 hours.

10 Q. We were told you receive ten working
11 days vacation pay; that is two weeks vacation?

12 A. Yes.

13 Q. Do you have two weeks' vacation?

14 A. Yes. We get more than that.

15 Q. More than that?

16 A. Yes, we do.

17 Q. What do you mean?

18 A. We are off all winter.

19 Q. Now, we were told that for each 8 hours
20 in excess of 40 hours a week you would receive one
21 day's pay or one day holiday; is that correct?

22 A. That is about it.

23 Q. How does it work for you? I understand
24 that you work from April to December, and that you
25 are paid for twelve months?

26 A. That is correct.

27 Q. Do you receive any vacation pay over
28 and above your monthly salary?

29 A. When we are off in the fall we get
30 vacation pay.



1 English

2 Q. You get your vacation pay during the
3 fall?

4 A. That is right, in the wintertime.

5 Q. During the season you get a regular
6 salary?

7 A. Yes, and the regular salary goes on
8 all winter too.

9 Q. It goes on all winter?

10 A. Yes, that is correct.

11 Q. During the fall, over and above your
12 salary, you get your vacation pay?

13 A. Yes.

14 Q. Do you do any kind of work during the
15 winter?

16 A. Not as a rule.

17 Q. Do you do anything for the Harbour
18 Commissioners?

19 A. Unless there is meetings called and
20 things to talk about.

21 Q. You are available?

22 A. No, not always. They let us know in
23 plenty of time. Weeks ahead of time.

24 Q. We were told that Toronto is provided
25 with a shore based radar, radar where the Harbour
26 Master can see what goes on?

27 A. Yes.

28 Q. Does that help you in any way in your
29 work as a pilot?

30 A. Definitely. When we go out on the pilot



1 English

2 boat -- when we did go out on the pilot boat, that is
3 where it worked. It guided us to the ship, through
4 ship to shore telephone and communication.

5 Q. Are you satisfied with the pilot boat?

6 A. Yes, I see nothing wrong with the pilot
7 boat.

8 Q. No complaints?

9 A. No complaints.

10 Q. Properly manned and properly equipped?

11 A. That is right.

12 Q. Have you any complaints about the
13 number of hours that you have to work during peak
14 periods?

15 A. Definitely not. I am quite satisfied
16 with the working conditions of the harbour. It is
17 the insecurity that I am not satisfied with.

18 Q. You are satisfied with the money you
19 are getting?

20 A. That is right.

21 MR. JACQUES: Thank you, sir.

22 MR. ESTEY: Only one small item which
23 I should clear up so there will be no misunderstanding.
24 I am sure there isn't anyway, but under the provincial
25 statute which happens to be called the Hours of Work
26 and Vacation with Pay Act, and the federal equivalent,
27 the question of holidays, of course, comes up only if
28 you work in lieu of holidays. If you are paid for the
29 holidays, you are not paid twice. You are paid your
30 annual salary, so what Captain Robinson says, and I am



1 English

2 sure you understand, he is paid by the year on a
3 certain monthly or annual contract basis, which includes
4 pay for the time he does work. In other words, his
5 holiday pay.

6 One answer might have indicated in the
7 fall sometimes he gets an extra cheque, but I am
8 instructed that is not so. So the effect of it is --

9 MR. JACQUES: Will you start again,
10 please?

11 MR. ESTEY: If he is paid \$1,200.00 a
12 year, this gentleman would get \$100.00 a month for
13 each month; for four of those months he is not
14 required to work. He is on holidays. So he has
15 holidays with pay. Therefore we are not required to
16 create a little storage battery for pay in lieu of
17 holidays. We have given him holidays and paid him,
18 so if the figure were \$1,200.00 a year, he gets paid
19 \$1,200.00 a year, and that includes eight months'
20 work and four months' holidays. I think there is a
21 parallel in our community to football.

22 MR. JACQUES: How does he ever get his
23 one day of holidays in lieu of every eight hours' work
24 in excess of 40 hours per week because there are only
25 so many days per year?

26 MR. ESTEY: That is the only difficult
27 thing about this. I frankly don't know, but the
28 reasonable proposition is you work two-thirds and you
29 don't work one-third. You comply with that. On the
30 same theory, there are only 24 hours a day.



1 English

2 MR. JACQUES: If he never worked in
3 excess of 40 hours a week he would get the same pay?

4 MR. ESTEY: Yes. He has a contract
5 for service. Mr. Griffith draws to my attention
6 something that would explain it better, and that is
7 once he has used up his holiday bank, his entitlement,
8 we could call him back and put him to work for some
9 part of that four months, but there is no work to be
10 done, so we don't. Therefore, we are really on a
11 contract for service basis. He is an employee with
12 an annual payment and the work we require him for is
13 eight months, and he gets his entitlement over and
14 above eight months and anything in excess of that is
15 excessive holidays.

16 MR. JACQUES: Any excess you could call
17 him back for work after his holiday period is over,
18 but you don't?

19 MR. ESTEY: But we don't, that is right.

20 MR. LALONDE: There are no ships.

21 THE CHAIRMAN: Any further questions of
22 Captain Robinson? Thank you, Captain.
23 (Witness retires).

24 MR. ESTEY: My Lord and gentlemen of
25 the Commission, that is the evidence which we have
26 that I wished to lead, and we hope that is evidence
27 which will assist this Commission in its deliberations.

28 There are a great number of details
29 which we could burden the Commission with, but we would
30 rather leave the outline so as to leave the distinctive



1 English

2 freshness of what we would like Your Lordship and
3 Commissioners to do. Putting it in lawyers language,
4 we would simply like the regulations repealed which
5 have been the subject of apparently various inter-
6 pretations in the United States and Canada wherein
7 some people say that the Master or owner of the vessel
8 must pay whether or not service is actually rendered
9 by the pilot. We say if these regulations are repealed
10 that the effect would be that pilotage in and around
11 the Toronto harbour would be completely voluntary.

12 We say in addition to that if these
13 regulations were repealed the only possible abuse
14 to which this harbour would be open would be somebody
15 extorting unreasonable fees.

16 Anticipatory legislation has never
17 in our type of community been successful, and we
18 simply say on that point that that problem should be
19 solved if, as and when it arises.

20 At the present time our charges which
21 the evidence has indicated, have been the same as the
22 statute, or lower, and we have no complaints we know
23 of, and none before this Royal Commission that our
24 service is not worthy of the fee which we charge.

25 THE CHAIRMAN: You said that it should
26 be free. You mean free but free for the user. As far
27 as the service, you mean anybody can ship in and anybody
28 could put a pilot?

29 MR. ESTEY: We look at that service
30 the same as we look at every other service we provide.



1 English

2 If we provide an electrician to work on a ship when
3 he comes into the harbour, nobody will pay for that
4 electrician's services unless he knows his electrician's
5 trade. As far as pilotage service is concerned, the
6 moment we don't provide the highly qualified man,
7 whether he has a diploma or not, we are not going to
8 be able to provide that service and there will be a
9 complaint. We say if that situation arises, then
10 we should be and we would be regulated, but our
11 principle, and that is with an le, our main principle
12 here is that we believe there should not be any form
13 of compulsory pilotage in and around the port of
14 Toronto.

15 As a collateral to that, as Mr. Griffith
16 put it as a gratuitous comment, we say there should
17 not be any compulsory pilotage on Lake Ontario,
18 including the port of Toronto. We say that not
19 entirely gratuitously because it does have a bearing
20 on our outlook on the requirement of pilots in Toronto.

21 If a lake pilot was not required on
22 board, a B certificate not required, we would be able
23 to put a pilot at the disposal of an ocean going Master,
24 and if the Master wished to use him, as in the City
25 of London or City of New York, the Master would do
26 so and he would pay our tariff. If he didn't wish to
27 do so, he would simply sail and dock his own vessel.

28 I do not need to take the time of the
29 Commission to illustrate why we believe that. We
30 simply say the proof of the pudding is in the eating.



1 English

2 We have three sides of the triangle before the
3 Commission today, and they are all in agreement that
4 this is a good useful and valuable service.

5 Firstly we have the shipping industry
6 who use it. The most important judge of any service
7 is the user.

8 Then we have the Commission who think
9 that this kind of service is necessary in the build-up
10 of this inland port.

11 Thirdly, and not the least important,
12 is the man who is rendering the service. If he is
13 not put upon by unusual and unfair working conditions,
14 he is discharging the service for the Harbour Commis-
15 sioners for the benefit of the shipping industry
16 and for his own benefit, and he is apparently content
17 with the conditions which surround him.

18 For all of these reasons we find our-
19 selves with the very simple theme here today that
20 we just do not wish to be regulated.

21 I think there are a number of collateral
22 issues which I would like to sweep aside, and that
23 is the question as to whether or not we have been as
24 cordial as we might have been to the lake pilots, and
25 whether or not our communication system is as complete
26 and effective as it should be. These are all valuable
27 considerations I am sure. We don't wish them discussed
28 if that means there will be some detracton from our
29 main position.

30 There were one or two other small items



1 English

2 which we got sidetracked into and perhaps I should
3 say a word about the physical side of the port operations.
4 The Commission indicated an interest before we came
5 here today in certain evidence about dredging channels
6 and so on and we were glad to make this available.
7 We trust we have done so to the extent the Commission
8 desires. We do, however, wish to always say this
9 when presenting these physical facts about this
10 harbour; that it is a safe harbour; it is known
11 to be a safe harbour in the shipping community around
12 the world. We do not have any hazards against which
13 we have to protect the shipping industry, any unusual
14 hazards.

15 We think what we are doing in the
16 dredging field, in the communications field and the
17 pilotage field is not only adequate but is as much
18 as should be done economically in this harbour.

19 Finally, as to the harbour operation
20 itself, we in this part of the world are known
21 unfavourably in some circumstances as blowing our
22 own horn, so we have today toned down the fact that
23 we are a very large and successful operation. The
24 prosperity unfortunately so far has all flowed to the
25 industry using the harbour and has left very little
26 to the Harbour Commissioners, but we are optimists
27 looking ahead to the future and it is when we look to
28 the future that we consider that these regulations are
29 of very considerable importance in our life.

30 We view with some alarm the ramifications



1 English

2 about raising the tariff elsewhere. We view with
3 considerable alarm the tendency of people outside of
4 this immediate shipping community in Toronto to wish
5 to control the pilotage service or some other part of
6 our harbour operation. We view with some importance
7 the fact that the United States authorities are
8 considering in Detroit next week some regulations
9 which would have a very serious effect back here.

10 When we have said all that we do not
11 wish to leave the impression that the world should be
12 regulated according to the way Toronto has it done.
13 We know we are only part of the lake system, but we
14 think that the experience that the shipping industry
15 has enjoyed here may be of use elsewhere and maybe in
16 other parts of the Great Lakes both sides of the
17 international boundary will be given the opportunity
18 to come around and see what Toronto is doing.

19 We have seen an example of how friction
20 has been unnecessarily generated up at the Lakehead
21 by misunderstanding of what Toronto is doing. I am
22 sure that when our position is explained to the
23 United States authorities this friction between Ottawa
24 and the U. S. over our activities will also disappear.
25 Most of the problems, I suppose, that could come before
26 the Royal Commission are soluble if people know enough
27 about each other's position.

28 We hope in conclusion that by setting
29 out the case today as we have, by deemphasizing the
30 human frailties and not loading the record with examples



1 English
2 of differences of opinion and personality conflicts,
3 we make some small contribution to settling this
4 problem.

5 So, My Lord, I would like to conclude
6 by and on behalf of the Commission, and thank Your
7 Lordship and the Commissioners for hearing us out so
8 patiently and we trust that the evidence and the
9 argument which we have put forward today will be so
10 clear and so persuasive that Your Lordship will
11 recommend that they abolish those regulations and leave
12 Toronto to grow in its own prosperity.

13 THE CHAIRMAN: Thank you very much,
14 Mr. Estey. You may be sure the evidence you have
15 provided us is going to be quite helpful. As I said
16 yesterday about the Hamilton evidence, this was a
17 situation that we had to investigate in the pilotage
18 system which is new here, a new pattern. We had to have
19 the facts of that.

20 We have found places where there is
21 harbour piloting but there was no restriction whatsoever,
22 like Seven Islands and round there. They have company
23 piloting. We have found all kinds of piloting every-
24 where. But this, of course, is more complex on account
25 of the international situation etc.

26 So we thank you very much; it is going
27 to be quite helpful.

28 MR. LALONDE: There is little time left,
29 My Lord, but I have here a lake pilot who was once
30 disgruntled, it seems, and I am told he has to start



1 English

2 work tomorrow morning since the Seaway is opening
3 tomorrow, I understand. I would like with your
4 permission to hear him very shortly. I have only a
5 few questions to ask, if I may?

6 THE CHAIRMAN: All right.

7
8 CAPTAIN MARCEL DUFOUR, Sworn

9
10 DIRECT EXAMINATION BY MR. LALONDE:

11 Q. I understand, Captain, you are a Lake
12 Ontario pilot?

13 A. That is right.

14 Q. When were you appointed?

15 A. Last year around the 25th of May.

16 Q. 25th May of last year? Before then
17 I understand you were sailing on the Great Lakes?

18 A. That is correct.

19 Q. For which company?

20 A. Canada Steamship Lines.

21 Q. For how many years?

22 A. Seventeen years.

23 Q. What were the main areas where you
24 sailed?

25 A. On the Great Lakes and down to Seven
26 Islands.

27 Q. Did you go to the Lake Ontario ports
28 often during that time?

29 A. Oh, yes, many times.

30 Q. Did you go in particular into the Toronto



1 English

2 harbour for instance during that time?

3 A. Yes, every year.

4 Q. Do you have any idea how often you
5 would have made it in normal years?

6 A. It is hard to say. I remember one year
7 I was on a freight ship and we came to Toronto about
8 every week.

9 Q. Did you calculate the number of trips
10 which you made last year in Toronto harbour?

11 A. Yes, I did.

12 Q. Would you please give the information
13 to this Commission?

14 A. In Toronto harbour?

15 Q. Yes.

16 A. I bring 34 ships in and 44 out and I
17 made four movages in the harbour, for a total of
18 82.

19 Q. For a total of 82 ship movements?

20 A. Yes.

21 Q. In Toronto harbour during the course of
22 last year?

23 A. Yes.

24 Q. Did you go to Hamilton last year?

25 A. Yes.

26 Q. How many times did you go to Hamilton
27 last year?

28 A. Three movages, nine ships out and 13
29 in for a total of 25.

30 Q. Twenty-five trips. We heard Captain Bell



1 English

2 before this Commission and I understand there is a
3 third Captain by the name of Captain Boisvert. Did
4 you check the number of trips made in Toronto and
5 Hamilton by Captain Boisvert also?

6 A. Yes.

7 Q. Would you give the information to this
8 Commission?

9 A. In Hamilton Captain Boisvert got 21
10 trips in and 18 out and four movages in Hamilton harbour
11 for a total of 39.

12 MR. ESTEY: It should be 43.

13 MR. LALONDE: Q. You said there would
14 be 21 in and 18 out for a total of 39?

15 A. In Toronto harbour. I had the wrong
16 one before.

17 Q. You had the wrong one before?

18 A. Yes; I gave this one for Captain Bois-
19 vert.

20 Q. Do I understand that the figures you
21 gave before for Hamilton and Toronto were for Captain
22 Boisvert and not yourself?

23 A. That is right.

24 Q. Excuse me; the figure of 39 trips in
25 Hamilton and 82 trips in Toronto would have been for
26 Captain Boisvert?

27 A. That is correct.

28 Q. And yourself, you had 25 trips in
29 Hamilton harbour?

30 A. That is right.



English

Q. And a total of how many in Toronto harbour?

A. 81.

Q. Eighty-one trips?

A. That is right.

Q. Divided into what?

A. 34 in and 44 out, and three movages.

Q. Did you calculate the number of instances in each case in Toronto for the two of you where you had harbour pilots aboard with you also?

A. For myself I got about 12, I guess.

Q. Did you check for Captain Boisvert?

A. About the same, -- 12, 13.

Q. Did you request yourself a local pilot?

A. No.

Q. To your knowledge were these requested by the Master while you were there?

A. By the Master.

Q. When you were there?

A. Yes.

Q. Did you ever interfere with the request of the Master in that respect?

A. No.

Q. A case was referred to here, which is not very important, of June 11th, 1963 in which you would have come and asked for directions from the Harbour Master's office as to what you should do. Is this a correct report of the events which occurred on that occasion?



1 English

2 A. Maybe it is right; I forget all about
3 that. I do not remember exactly about that.

4 MR. LALONDE: You do not remember
5 exactly about it? Thank you.

6
7 CROSS-EXAMINATION BY MR. BRISSET:

8 Q. Captain Dufour, when you made those
9 13 trips into Toronto with a Toronto harbour pilot
10 on board did you get paid?

11 A. Yes, sir.

12 MR. LALONDE: He said 12.

13 MR. BRISSET: Q. Twelve -- I am sorry.
14 I suppose it would be the same for the 13 done by
15 Pilot Boisvert?

16 A. Yes.

17 MR. LALONDE: Is it 13 for Pilot
18 Boisvert?

19 THE WITNESS: Thirteen for Captain
20 Boisvert. I am sorry, Captain Boisvert is ten which
21 have a pilot on board.

22 MR. BRISSET: Q. At all events, whether
23 it is ten or twelve you both got paid for the docking?

24 A. That is correct.

25 Q. Or undocking?

26 A. Yes.

27
28 CROSS-EXAMINATION BY MR. JACQUES:

29 Q. Who did the work of docking the ship
30 when you were with the harbour pilot?



1 English

2 A. The harbour pilot.

3 Q. And yet you were paid for doing that
4 work?

5 A. Yes, sir.

6 Q. What experience did you have at going
7 to sea? What certificate have you got?

8 A. Master inland.

9 Q. Have you sailed as Master before?

10 A. No.

11 Q. How long ago did you obtain your Master's
12 certificate?

13 A. Two years ago.

14 Q. In what capacity did you sail for C. S. L.?

15 A. Deckhand to first mate.

16 Q. How long were you first mate?

17 A. A couple of years.

18 Q. Just before you became a pilot?

19 A. That is right.

20 Q. Who requested payment of the \$25.00
21 docking fee? Was it you or your billing office?

22 A. The billing office.

23 Q. Cape Vincent?

24 A. That is right.

25
26 RE-EXAMINATION BY MR. LALONDE:

27 Q. When you said a couple of years as
28 first mate, do you mean two years or more than that?

29 A. Say about three years.

30 Q. Would you have an idea how many trips



1 English

2 you made in total last year on Lake Ontario?

3 A. One hundred and twenty-nine.

4 Q. One hundred and twenty-nine.. Out of
5 these 129 do you know whether you were requested to
6 pilot ships which had B certificates on board?

7 A. Yes.

8 Q. Did you check on every ship which you
9 boarded in that respect?

10 A. No, not every ship.

11 Q. Would you say that it is a rare event
12 or a reasonably frequent event or a very frequent
13 event that you have piloted a ship with a B certificate
14 on board?

15 A. Every time I was on board a ship and
16 the Captain had his B licence and he wants a pilot
17 was because he was tired and he want to go to bed.

18 Q. Would you have any idea as to the
19 proportion that would be out of the total number of
20 trips that you made, that you would be on board with
21 a B certificate?

22 A. Around ten, I guess.

23 Q. Ten you would know of?

24 A. Yes.

25 Q. But you said you did not make a check
26 on every ship you boarded?

27 A. No.

28
29 FURTHER CROSS-EXAMINATION BY MR. JACQUES:

30 Q. What do you do as a pilot on Lake



1 English

2 Ontario?

3 A. Navigate -- do the navigation.

4 Q. Yes, I realize that, but by way of
5 navigation what do you do? Do you take bearings,
6 take sights, work out the position of the ship?

7 A. We take the position of the ship and
8 give our course and the mate on watch takes a bearing
9 and we check all the bearings. If there is nothing
10 right, so we change the course and something.

11 Q. You have sailed down river, have you
12 not?

13 A. Yes.

14 Q. Is there any difference between navi-
15 gating down river and navigating on the Lake apart
16 from the rules of the road?

17 A. Yes, big difference.

18 Q. What is the difference?

19 A. You mean from Montreal?

20 Q. Say from Quebec to Escoumains or
21 Quebec to Seven Islands?

22 A. I do not see any big difference. It
23 is only the rules of the road.

24 Q. Just the rules of the road, and you
25 had to learn two sets of rules of the road, did you
26 not?

27 A. That is right.

28 Q. Did you have trouble applying one set
29 on the Lake and one set on the river?

30 A. No.



English

Q. Did it create confusion in your mind?

A. No. We know all that.

Q. You never gave the wrong signal?

A. No.

Q. You never gave a lake signal while
you were on the river?

A. No.

MR. JACQUES: Thank you.

MR. LALONDE: How many trips a year
would you be making between the lakes and Seven Islands?

THE WITNESS: Well, I guess in 1955
I guess about ten trips.

MR. LALONDE: Ten trips return?

THE WITNESS: Yes.

MR. LALONDE: That would be twenty
voyages?

THE WITNESS: Yes.

MR. BRISSET: Captain Dufour, when
you piloted or went on board lake ships having an
officer with a B certificate across Lake Ontario, do
you know whether this was at the Master's request or at
the suggestion of the dispatcher?

THE WITNESS: Would you repeat that
slowly, please?

MR. BRISSET: How were you dispatched,
tell me first; who called you?

THE WITNESS: Cape Vincent Pilot Office.

MR. BRISSET: The dispatcher?

THE WITNESS: Yes, that is right.



1 English

2 MR. BRISSET: Are you aware of the
3 practice by the dispatcher of telling the Master of
4 ocean vessels that there are trans-lake pilots
5 available and suggesting to them that they might use
6 them?

7 THE WITNESS: I do not think so.

8 MR. BRISSET: You don't think so?

9 THE WITNESS: I don't think so.

10 MR. BRISSET: You know the dispatcher
11 in Kingston personally?

12 THE WITNESS: No. I don't know
13 exactly the question.

14 MR. BRISSET: You don't know?

15 THE WITNESS: No, because the office
16 is in Cape Vincent and I live in Kingston.

17 MR. BRISSET: You are called at Kingston
18 by the Cape Vincent office?

19 THE WITNESS: Yes.

20 THE CHAIRMAN: To which other port did
21 you call last year?

22 THE WITNESS: Pardon?

23 THE CHAIRMAN: To which other ports
24 did you call last year aside from Hamilton and Toronto?

25 THE WITNESS: Rochester. Rochester
26 and Port Weller. I was at Cobourg once.

27 THE CHAIRMAN: How many times were you
28 at Rochester?

29 THE WITNESS: Twice. Once at Cobourg
30 and the rest at Toronto.



1 English

2 THE CHAIRMAN: And Port Weller?

3 THE WITNESS: Yes.

4 THE CHAIRMAN: When you are in those
5 ports there has to be some docking. Do you handle
6 the ship?

7 THE WITNESS: Yes.

8 THE CHAIRMAN: You do that?

9 THE WITNESS: Yes.

10 THE CHAIRMAN: Any further questions?

11 Thank you very much, Captain. We will
12 now adjourn until tomorrow morning at ten o'clock.

13
14 ---WHEREUPON THE HEARING WAS ADJOURNED UNTIL WEDNESDAY,
15 THE 8th DAY OF APRIL, 1964 AT 10:00 A.M.

BINDING SECT

MAY 2 1972

